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[6-1] NOTES FOR A

CONFERENCE ON HUMAN RIGHTS

TEHRAN, IRAN, 1968





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Notes for
A Conference on Human Rights
Tehran, Iran, 1968

Secrétariat d'Etat
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Ottawa, Canada 1970

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FOREWORD

Universal Declaration of Human Rights, and the Canadian Experience.

This publication records the notes prepared by the Citizenship Branch, Department of the Secretary of State, for the use of the Canadian Delegation to the International Conference on Human Rights, Teheran, Iran in 1968.

The notes follow the chronology of the Universal Declaration of Human Rights. Each article of the Declaration is cited. Each such citation is followed by a brief account of the situation. In a sense, what is attempted is a comparison of "what is" in Canada to what "ought to be" in accordance with the standard set out in each article of the Declaration.

It is hoped that this initial effort of the Citizenship Branch will be a help and a guide to similar work in the future.

The notes serve as a reminder that though much has been done, much remains to be done in the field of human rights in Canada. Footnotes have been added to each report as an aid to their immediate use.

Jean H. Lagasse,
Director.

CONFERENCE ON HUMAN RIGHTS - TEHRAN 1968

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

History of Rights

The concept of freedom and equality as outlined in Articles 1 and 2 of the Universal Declaration of Human Rights has been a part of the Canadian tradition since Confederation. This concern for freedom and equality was strongly embedded in the cultures of the two major founding groups, the English and the French.

The preamble to the British North America Act, which is Canada's written constitution, states in the first paragraph that the provinces would be united "with a Constitution similar in Principle to that of the United Kingdom." The implication is that all of those traditions and symbols for man's freedom and equality which were developed through the centuries in England were to be part of Canada's heritage.

Among these symbols are Magna Carta in 1215, the Petition on Rights of 1628, the Habeas Corpus Act of 1679 and the Bill of Rights of 1689. Another important document is the Declaration of the Rights of Man and of the Citizen proclaimed in France in 1789.

Progress achieved since 1948

Canada therefore has a tradition of respect for freedom and equality for all citizens. In spite of this, minority groups in Canada have suffered from various types of discriminatory legislation. Since the Second World War most of this discriminatory legislation has been repealed and much anti-discriminatory legislation has been placed on the statute books of both the federal and provincial governments.

To further guarantee the rights of Canadians, the federal government invited all 10 provinces to a constitutional conference in 1968 to discuss the inclusion of a Canadian Charter of Human Rights in the Constitution. Although agreement has not been reached owing to the special circumstances of some of the provinces, the government is continuing to study revision of the Constitution in order to accommodate the requirements of all the provinces. (1)

Briefly, the proposed Charter would protect four broad categories of rights as follows:

- (1) Political Rights - includes freedom of expression; freedom of conscience and religion; freedom of assembly and association.
- (2) Legal Rights - includes general security of life; liberty and property; equal protection of the law; protection against cruel punishment; the rights of an arrested person; right of a witness to counsel; right of a person to a fair hearing; presumption of innocence; and right to an interpreter.
- (3) Egalitarian Rights - guarantees against discriminatory treatment by governmental or other action by reason of race, national origin, religion or sex.
- (4) Linguistic Rights - guarantees the right of the individual to deal with agencies of government in either official language and guarantees the right of an individual to education in institutions using the official language of his choice as a medium of instruction.

Article 3

Everyone has the right to life, liberty and security of person.

According to the Canadian Bill of Rights, no one may be deprived of the right to life, liberty and security of the person except by due process of law. The interpretation of "due process" in Canada has not yet been settled. The Criminal Code, a federal statute applying to all provinces, protects these rights. Liberty of the person is protected by Habeas Corpus and by bail.

- a) Since 1948, changes in federal laws have narrowed the field for imposition of death sentences and have tended towards the eventual elimination of death as a punishment for a crime. Amendments to the Criminal Code in 1960 included the following: (2)
 - 1) new Subsection (3) of Section 206 excepts persons under 18 years of age at the time of commission of capital murder from the mandatory death sentence and provides a sentence of life imprisonment instead.
 - 2) new Section 492A provides that no person shall be convicted of capital murder unless in the indictment charging the offence he is specifically charged with capital murder.
 - 3) new Subsection (28) of Section 515 provides that the court shall order the clerk to enter a plea of not guilty where an accused charged with an offence punishable by death does not plead not guilty or one of the special pleas authorized (autrefois convict, autrefois acquit, pardon) or does not answer directly.
 - 4) new Section 583A eases the opportunity for a person sentenced to death to appeal to the court of appeal against his conviction or sentence.
 - 5) new Section 642A provides that where a jury finds an accused guilty of an offence punishable by death, the judge who presides shall, before discharging the jury, put to it the question of whether or not it wishes to recommend clemency. Such a recommendation is then included in the judge's report to the Minister of Justice.

- b) Other changes in the Criminal Code in 1960 provided greater protection for a person's physical safety.
 - 1) new Subsection (4) of Section 221 added dangerous driving of a motor vehicle as an indictable offence.
 - 2) new Section 226A added operation in Canadian waters of a vessel or certain other moving objects which are dangerous to navigation, life or limb as an indictable offence.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Slavery and the slave trade do not exist in Canada. White slavery or "procuring" is illegal under the Criminal Code and anyone found guilty of this practice is liable to imprisonment for 10 years.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The Canadian Bill of Rights of 1960 prohibits discrimination between the sexes, as well as cruel or unusual treatment or punishment. However, the Criminal Code still includes whipping as a punishment for certain sexual offences, armed burglary, robbery and choking or drugging, but only for male offenders. Females may not be whipped as a punishment.

Prisons

There is no single Canadian prison system. The Federal Government administers prisons designated as penitentiaries where persons sentenced to two years or longer are committed. For sentences of less than two years, the provinces generally are responsible. This diversity may involve unequal treatment of prisoners between one province or one locality or another because of the differences in prison facilities and resources.

Juveniles

Provincial statutes covering juveniles now make provision for children to be brought before a court not only by reason of being accused of an offence, but also by reason of their being

exposed to undesirable circumstances in their living environment. Children may be sent to provincial residential training schools. Administration of these schools varies between the provinces. In some cases, the Attorney-General is responsible for their administration. In others, the Welfare Department has the responsibility. In Quebec, such schools are run by private organizations. Licensing of such institutions also varies between provinces. Children in such institutions are separated according to sex and religious belief.

Parole

The Parole Act of 1958 replaced the previous "Ticket of Leave" Act. Under the new Act, a National Parole Board was established. This Board has exclusive jurisdiction and absolute discretion to grant, refuse or revoke parole. Additionally, the Board may, upon application and subject to regulations, revoke or suspend any sentence of whipping or any order made under the Criminal Code prohibiting a person from operating a motor vehicle.

There is some overlapping of jurisdiction, however, between the federal government and those provinces which have established a reformatory system. In these provinces, certain offenders against the Criminal Code may be given indeterminate sentences under the Prisons and Reformatories Act. This, in effect, is equivalent to parole.

Probation

Probation or suspended sentence provides an opportunity for first offenders, those with a clean record for five years, or those whose previous offence was not related to the current one, to be rehabilitated without serving a prison term.

Organization of probation in Canada is within the administrative framework of the provinces. Manitoba, Ontario and Quebec had certain probation services before 1948. In Quebec, however, this was provided by the Catholic Church and the Catholic Young Workers.

The Yukon and the Northwest Territories established a probation service in 1964 but it is not yet fully in operation. (3) B.C. enacted a probation law in 1948. In 1963, the B.C. Family and Children's Court Act made sweeping changes in juvenile and family courts and authorized probation officers to

solve family problems without the intervention of the court. Alberta organized a probation service in 1952. In Saskatchewan, a Corrections Act was passed in 1953 and adult probation was first established in 1949 in Regina and Saskatoon. Services then were extended to other cities over a period of years.

In Manitoba, adult probation services began in 1957 without provincial legislation, under the presumption that section 638(3) of the Criminal Code authorizes such services. The Child Welfare Act provides for juvenile probation services. Ontario has the oldest and largest probation service in Canada for both adults and juveniles. In Quebec, the government provides services only for juveniles. Private agencies serve adults. Social Welfare Courts for juveniles date from 1950 and replaced juvenile courts. In 1959, a provincial Protection Service was created to coordinate juvenile services. Quebec also carries on probation research.

Probation services began in New Brunswick in 1959. In Nova Scotia adult services started in 1954. The Nova Scotia Department of Public Welfare looks after juveniles and the Children's Aid Society services areas not covered by government probation services.

In general, existing differences in both adult and juvenile probation laws and services across Canada constitute a form of inequality for Canadians on a geographical basis.

The Criminal Code also continues to provide for the royal prerogative of mercy and sentences thus can be mitigated.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

This is generally true in Canada. However, federal and provincial legislation provides special protection for certain classes of persons and this might be construed as implying non-recognition as a person before the law.

For example, minors are represented in civil actions by the person having charge of the minor, whereas in criminal cases minors can appear on their own. Another instance is the status of the insane, the mentally-ill or the mentally deficient. Such individuals may be declared incompetent to be on trial in criminal cases because of their condition during the commission of the offence or during the trial. In civil cases in Quebec, such individuals must be represented by a curator.

In all provinces the particular legislation involved usually defines the prohibited classes. Quebec legislation is unusual in that it formally prescribes a status called "civil degradation" for persons sentenced to death or to life imprisonment. Such a person is, *inter alia*:

- 1) unable to dispose of the whole or any part of his property, either by gift *inter vivos* or by will, nor receive thereunder, unless as an alimentary allowance. In addition, every will by him made previous to his condemnation is null.
- 2) from the date of the sentence, presumed to be in a state of interdiction, and upon the petition of any person interested, a public curator is appointed to him to manage and administer his property, in the form provided for the appointment of curators to persons interdicted for insanity.

A pardon or remission of the sentence or its commutation to another which does not imply civil degradation or interdiction restores the condemned person to all his civil and political rights and obliges the curator to account for his administration.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Under federal jurisdiction, three important fields could be alleged to have contravened the principle of equality before the law.

In 1951 the Canada Elections Act disqualified Indians resident on a reserve, unless they were in the Armed Forces during certain periods. In addition, conscientious objectors could not vote. The 1962 Act removed these disqualifications. Although Indians could not vote in provincial elections in 1948, by now all provinces except Quebec have granted the franchise to Indians.

Until 1962, immigration regulations discriminated against non-European immigrants. Now regulations since then have eliminated this and the current policy is one of non-discrimination.

In the field of Indian legislation, substantial differences still exist between the rights enjoyed by other Canadians and Indians. The liquor provisions of the Indian Act do not apply to anyone else. Provincial liquor laws vary with respect to Indians who receive different treatment in different parts of Canada. The right to own and dispose of property, the status of women and other matters also are different for Indians than for other Canadians. The courts, however, have deemed legislation such as the Indian Act to be protective and have been reluctant to consider it discriminatory.

Another aspect of equality before the law is provision of counsel for an accused who cannot afford it.

In 1948, Newfoundland, Prince Edward Island and the Northwest Territories had no legal aid system. Ontario, Nova Scotia and Quebec had lawyers providing some legal aid without remuneration when required. New Brunswick provided limited remuneration and the other provinces did the same for certain classes of cases. In 1967, Ontario introduced a legal aid system under the "Legal Aid Act." This plan is administered by the provincial Law Society and serious criminal cases, including

criminal appeals and important civil proceedings, including civil appeals, come under Legal Aid. Most magistrates courts also have duty counsel to assist persons in custody, or on bail, or appearing under summons, if they so desire. The duty counsel can and will advise the accused of his legal rights. Once an accused qualifies for legal aid he may select the lawyer of his choice from those participating in the scheme. Fees are sufficient to attract many Ontario lawyers to participate.

In Quebec, prior to 1964, the husband represented the wife in actions re immoveable or moveable property when the wife was under community of property. If she was separate as to property, the wife still required her husband's authorization to appear in judicial proceedings. In 1964, however, a Bill was passed recognizing the legal capacity of women and a wife now can appear in judicial proceedings without her husband's authorization, although the husband still retains administrative authority when they are under community of property.

Since 1948, almost all the provinces have enacted fair employment and fair accommodation laws. Only Prince Edward Island and Newfoundland do not have such legislation. The federal government also passed a Fair Employment Practices Act in 1952. These laws, amongst others, protect citizens from discrimination in a variety of fields.

See Article 23 re "right to work" for further details of anti-discrimination legislation.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

No basic changes have taken place since 1948 in the main structure of Canada's judicial system. There are various courts responsible for different matters and differences exist between the provinces. Trials may be before judge and jury of 12, or jury of six in Alberta and the Territories, and by judge alone in certain cases. In each province and territory, appellate courts are available to hear appeals from acquittals or convictions and from sentences on charges of indictable offences. These courts differ in name and organization but each is the highest appellate court of both civil and criminal jurisdiction in its province or territory.

Provincial courts of appeal are created and organized under provincial legislation and their staff are appointed and paid by the provincial governments. The judges are appointed and paid by the federal government. The Supreme Court of Canada is the court of last appeal.

All provinces and the Territories have juvenile courts, known by various names. Family courts also exist in a number of provinces. These handle provincial legislation cases although certain federal offences also are dealt with by family courts. Divorce cases do not come under family court jurisdiction.

One of the problems in Canada is the availability of remedies for violation of rights resulting from administrative procedures and actions. In 1967, both Alberta and New Brunswick passed Ombudsman Acts and both Ombudsmen have been appointed and are functioning. (Manitoba made such appointment in 1970.)

In 1948, an action against the Crown required a "Petition of Right" begging leave to do so. Since the underlying principle in respect of actions against the Crown was that the King could do no wrong, they could not lie for a tort. A petition of right could be made for breach of contract.

In 1953, however, the Crown Liability Act provided that the Crown was liable to suit in tortious actions. With minor exception, the Exchequer Court has exclusive jurisdiction. Actions in contract are not covered by the Act and in such cases the aggrieved person must proceed under the Petition of Right.

Act. In 1951, the traditional requirement of the Governor-General's "Tiat" was abolished. The result is that in both contract and tort the subject now has the right to sue the federal government without first obtaining the government's assent. Since proceedings in tort and contract are both dealt with in the Exchequer court, as a matter of practice actions in either case are brought by means of petition or right.

Most of the provinces by now have either substantially adopted a Proceedings Against the Crown Act or have provisions similar in effect in force. The main feature of the provincial proceedings is the right to sue the Crown and the abolition of the petition of right.

In 1950 an Act was passed which provided that actions could be brought in provincial courts against a number of Crown agencies, including the CBC, CMHC and the Canadian Wheat Board.

Some limitations upon the common law remedies available to an individual contractor are:

- 1) if successful in obtaining a judgment, execution will not lie against the Crown for its enforcement.
- 2) The Crown privilege in regard to discovery, in particular to discovery of documents. In certain situations, the Crown may refuse to produce a document or answer a question on discovery or interrogatories on the ground that such action would be injurious to the public interest.
- 3) inability to obtain an order of specific performance or injunction against the Crown.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

In Canada, the Criminal Code, Habeas Corpus and bail provide protection against arbitrary arrest and detention.

Anyone who is arrested illegally can sue the arresting agent for damages. According to Section 26 of the Criminal Code, everyone who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

Certain rules govern the ordinary arrest of a person. The arresting agent

- 1) identifies himself
- 2) carries a warrant, if possible, and produces it if required
- 3) describes the nature of the warrant and the reason for the arrest, if possible
- 4) uses no more than reasonable and necessary force
- 5) has the person's fingerprints and picture taken and can make a personal search
- 6) must appear with the arrested person before a justice within 24 hours of the arrest if a justice is available or as soon as possible after 24 hours, if a justice is not available during that period.

Arrests can be made without a warrant in certain specified cases.

Since 1948, an amendment to the Criminal Code provided that a warrant or a summons may be issued on Sunday or on a statutory holiday.

Deportation may be considered a case of exile of the person. In Canada persons who have not yet acquired domicile (five years of residence) may be deported if they fall into prohibited classes at time of entry or within five years of entry, if they have engaged in commercialized vice, have been convicted under the Criminal Code or have become inmates of prisons or mental

institutions, or have gained entry by fraudulent means. A person not a citizen may be deported regardless of length of residence if he is found to be a member of a subversive organization or engages in subversive activities, if he has been convicted of an offence involving disloyalty to the Queen, or if he has engaged in activities outside of Canada which are detrimental to the security of Canada. A Canadian citizen cannot be deported.

In 1967, an independent Immigration Appeal Board was established. It hears appeals against deportation orders issued by the government's special inquiry officers. It has the power of dismissing or allowing appeals as well as staying the execution of deportation orders. (Its findings may be appealed to the Supreme Court of Canada.)

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

The BNA Act provides for an independent judiciary. The Governor General appoints judges of the Superior, District and County Courts in each province, except those of Courts of Probate in Nova Scotia and New Brunswick. Judges are selected from members of the provincial Bars. They remain in office during good conduct and until age 75. A judge may be removed by the Governor General on address of both the Senate and House of Commons. Salaries, allowances and pensions of the above-mentioned judges, as well as of Admiralty Court judges receiving a salary, are established and provided by Parliament. Federal and provincial statutes also define qualifications for judges. These procedures tend to ensure impartiality and independence of judges.

A deterrent to judicial or legislative partiality and corruption is the possibility of imprisonment for persons attempting to bribe judges or members of Parliament or of a Legislature. This holds true as well for officials accepting bribes. Corruption of jurors, witnesses or bondsmen and attempts to mislead justice by perjury or fabrication of evidence are indictable offences.

An accused is entitled to a public hearing unless the court orders a trial in camera for good cause. Trials of juveniles take place without publicity. In certain cases, the accused can elect trial by jury or trial without jury.

Since 1948, changes in the Criminal Code permit an accused, under certain circumstances, to elect trial in the province in which he is in custody, even though the offence was committed in another province.

Article 11

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

The Criminal Code provides protection of the right to be presumed innocent until proven guilty. It also provides that punishment shall not be other than that prescribed by the Act or by the enactment which creates the offence. Presumption of innocence is a fundamental principle of Canadian criminal justice. "Reserve onus" clauses might be considered exceptions to this. The courts, however, have distinguished this kind of factual presumption from a presumption of guilt.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

The Criminal Code provides for issuance of a warrant before entry into a home or other property to search for or to seize anything. The remedy for unlawful arrest is civil action for damages. Sections 38 to 42 of the Criminal Code provide for defence of moveable property, dwelling and real property. A person is liable to imprisonment for forcible entry when he enters real property that is in actual and peaceable possession of another in a manner that is likely to cause a breach of the peace or apprehension of a breach of the peace, whether or not he is entitled to enter. The defence of property provisions of the Criminal Code provide for the use of reasonable force to protect one's property. Evidence obtained by illegal means, however, may be used against an accused.

Under rules of practice, counsel is entitled to talk privately with an accused without outside interference or restraint.

The Criminal Code also protects against blasphemous or defamatory libel.

Since 1948, husbands or wives may be compelled to give evidence against each other in certain cases such as sexual offences or offences tending to corrupt morals under amendments to the Criminal Code. Otherwise husbands or wives do not have to testify against their spouse.

A new subsection was added to the Criminal Code in 1959 prohibiting publication or broadcasting of a report of a confession tendered in evidence at a preliminary inquiry, unless the accused had been discharged or his trial ended.

Another change in the Criminal Code in 1961 made it an offence to make an indecent telephone call to any person with intent to alarm or annoy such person. This adds to the existing offence of conveying false information with intent to injure or alarm someone. The section on threatening letters also was amended to include means of communication other than written messages, designed to harm a person or an animal or bird owned by that person.

The Criminal Code also protects privacy of the mail, except in cases where the Postmaster General has reason to believe that the sender or the addressee is committing or attempting to commit an offence. In such cases, the Postmaster General may make an interim order prohibiting delivery of all mail directed to the addressee or deposited by the sender.

Article 13

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

In Canada citizens are free to move and reside anywhere in the country. This right is conceived as being part of Canadian citizenship, accruing to natural-born or naturalized Canadians.

This principle has been upheld by the Supreme Court. In the 1938 Alberta Press Case decision, for example, Cannon J. stated, *inter alia*,

"...Every inhabitant in Alberta is also a citizen of the Dominion...the province cannot interfere with his status as a Canadian Citizen..."

In the case of *Winner v. S.M.T. (Eastern) Ltd.* in 1951, Rand J. declared,

"...A Province cannot, by depriving a Canadian of the means of working, force him to leave it: it cannot divest him of his right or capacity to remain and to engage in work there: that capacity inhering as a constituent element of his citizenship status is beyond nullification by provincial action."

In the same case, Estey J. was specific when he stated,

"...There is but one Canadian citizenship and, throughout, the British North America Act contemplates that citizens and all others who may be for the time being in Canada, shall enjoy freedom of passage throughout the Dominion, subject to compliance with competent provincial legislation."

The 1967 Citizenship Act removed previous provisions that naturalized Canadians who resided outside of Canada for 10 consecutive years automatically lost their citizenship.

Limitations on departure from and return to Canada also exist in relation to fugitive offenders who may be apprehended and brought before a court to decide whether or not he shall be kept in detention.

Juvenile offenders or other prisoners in Canada may be paroled under certain conditions and may be issued a certificate to be at large in one or more provinces during the remainder of their prison term.

The Immigration Act and its Regulations provide for deportation of certain prohibited categories of persons other than Canadian citizens or those having Canadian domicile.

Article 14

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

History

In 1947, Canada became a member of the International Refugee Organization which was one of the early refugee organizations formed after the Second World War. Canada has continued to actively assist those who are seeking asylum by contributing money and food and by allowing refugees to enter Canada under certain circumstances.

UNRWA and UNHCR

Canada has been a leading contributor to the UN agency UNRWA. For the fiscal year 1967-68, the Canadian government contributed about \$2.8 million to UNRWA. During World Refugee Year, Canada contributed \$1 million in wheat flour to UNRWA. Canada has also been a continuing contributor to UNHCR. For example, during the 15-year period 1951-1966 Canada contributed more than \$3.5 million to the UNHCR. (4)

International Refugee Organization

During the period 1946-1951, Canada contributed \$18.8 million to the IRO. During this same period Canada accepted 123,479 refugees for resettlement. These refugees had all the rights and privileges of other immigrants and were permitted to apply for citizenship after five years.

World Refugee Year

Canada was one of the supporters of the World Refugee Year resolution which was adopted by the United Nations General

Assembly in 1949. Besides the contribution to UNRWA which is noted above, Canada admitted 150 tuberculosis refugees and their families. Canada also admitted more than 3,500 other refugees during this special year.

Admittance of Refugees

As noted above, Canada has had a continuous interest in alleviating the sufferings of those who are seeking asylum by its contributions to specialized agencies. In addition, Canada has admitted more than 300,000 refugees since the Second World War. Most dramatic perhaps was the admittance in 1956-57 of 38,000 refugees from Hungary. (In 1968, Canada admitted a 11,000 Czech refugees under similar provisions.) Canada is not yet a signatory to the Convention on the Status of Refugees. However, a statement in the 1966 White Paper on Immigration indicated the government is considering acceding to this Convention and to the Hague Agreement relating to Refugee Seamen. (5)

Extradition

Under the terms of Canada's Extradition Act (R.S. 1952 c.322, s.21) no fugitive is liable to surrender to a foreign power if it appears that

"(a) the offence in respect of which proceedings are taken under this Act is one of a political character, or (b) that such proceedings are being taken with a view to prosecute or punish him for an offence of a political character."

R.S. 1952 c.322, s.22 further states:

"where the Minister of Justice at any time determines

- (a) that the offence in respect of which proceedings are being taken under this part is one of a political character,
- (b) that the proceedings are, in fact, being taken with a view to try or punish the fugitive for an offence of a political character, or
- (c) that the foreign state does not intend to make a requisition for surrender, he may refuse to make an order for surrender, and may, by order under his hand and seal, cancel any order made by him, or any warrant issued by a judge under this part, and order the fugitive to be discharged out of custody on any committal made under this part; and the fugitive shall be discharged accordingly."

In cases where the fugitive is accused of a crime of a non-political nature, he can be extradited if the foreign power in question has signed an extradition treaty with Canada. To date Canada has signed such treaties with 43 nations.

Article 15

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

History

The Canadian Citizenship Act came into force on January 1st, 1947. It established for the first time in the nationality context the legal status of a Canadian citizen. It set forth who were Canadian citizens under the terms of the law. It established the criteria and procedures to be met by a person wishing to be granted Canadian citizenship, and it stipulated the conditions under which a Canadian citizen could lose his status.

Citizenship Act 1947

Some of the main features of the original Citizenship Act are described in the following:

- (a) Persons born in Canada before January 1st, 1947, who had not become aliens and certain other persons who could establish derivative citizenship were designated as "natural-born Canadian Citizens." Persons born in Canada after December 31st, 1946 are in the same category. Persons born outside of Canada are also "natural-born Canadian Citizens" if, at the time of their birth, the responsible parent is a Canadian and the births are registered within two years of occurrence or within such extended period as the Minister responsible may authorize in special cases.
- (b) Certain persons such as British subjects with Canadian domicile on January 1st, 1947 or persons naturalized in Canada before that date became "Canadian Citizens Other Than Natural-born."
- (c) Married women were removed from "a state of disability." In other words their nationality would no longer depend on that of their husband.
- (d) Non-Canadian British subjects could file applications for citizenship with the Minister; aliens were required to file through the Courts. In either case, the qualifications were

the same. Such persons had to have been admitted to Canada for permanent residence and meet specified residence requirements in Canada; an adequate knowledge of either of Canada's official languages and responsibilities of citizenship; (the language requirement was waived for applicants who had resided in Canada for 20 years); the intention to reside permanently in Canada and the intention to comply with the Oath of Allegiance.

Citizenship Act Amendments - 1950

In 1950 the following changes were made in the Act.

- (a) Children of foreign diplomats and of certain categories of their employees born in Canada after December 31st, 1946 were not Canadians.
- (b) Granting of citizenship to a woman who had automatically lost British subject status by marriage to an alien before 1947, and to persons who had lost Canadian citizenship by acquisition of another nationality while outside of Canada was made a speedier process than had previously been the case.
- (c) Recognition was given to adopted or legitimated persons provided the male adopter was a Canadian or the father of the legitimated person was a Canadian.
- (d) Liberalization of the provisions concerning loss of citizenship by renunciation, residence outside of Canada or revocation and an easing of the requirements by which citizenship may be regained particularly by persons who lost their status as minors.
- (e) The term Commonwealth Citizen and citizens of the Republic of Ireland were given special recognition.

Citizenship Act Amendments 1953

In 1953 the following amendments were made:

- (a) an enlargement of the categories of persons born outside of Canada made Canadian by the passage of the Act in 1947 and an extension of the period during which some could move to retain their status after reaching the age of 21 years.

- (b) counting service outside of Canada in the armed forces of the country and long residence in the country prior to the Act coming into force towards, or in place of, the normal domiciliary qualification.
- (c) a lengthening of the period of residence outside of Canada before citizenship was lost.

Citizenship Act Amendment - 1956

In 1956, the Act was again changed to recognize Indians and Eskimos not born in Canada as Canadian citizens provided that they had many years residence in the country prior to 1956.

Citizenship Act Amendment - 1967

The most recent changes of significance occurred in 1967. These included

- (a) easing, and removing in some cases, the language requirement for citizenship.
- (b) the removal of the provision under which other than natural-born Canadians automatically lost their citizenship by 10 years residence outside of Canada
- (c) naturalized and natural-born Canadians were placed on an equal footing inssofar as revocation is concerned
- (d) the residence requirement was made more flexible and
- (e) an appeal system has been established for persons whose applications have been rejected by a Citizenship Court.

Immigration Legislation Since 1948

After a decade and a half of inactivity due to the depression of the 1930's and the Second World War, Canada resumed an active immigration program in 1947.

The present Immigration Act has been in effect since 1952 but it is anticipated it will be substantially revised. A preliminary step in this direction took place in 1966 when the government's White Paper which contained legislative proposals

was examined by a Joint Committee of the Senate and the House of Commons. The Joint Committee has not yet made its final recommendations to Parliament.(6)

The Act itself contains no discriminatory provisions against the admission of persons on the grounds of race. It does provide, however, that regulations may be made by the Governor in Council "prohibiting or limiting the admission of persons by reason of nationality, citizenship, ethnic group, occupation, class or geographical area of origin." While this section has now become a dead letter and will doubtless be removed when Parliament considers amendments to the Immigration Act, it has been the subject of considerable criticism in Parliament and outside.

The Regulations first made under the Immigration Act of 1952 limited general admission to certain British subjects and citizens of France and the United States. Persons from Asia were restricted to the immediate families of Canadian citizens. Nationals of other countries could only be admitted if they were regarded as suitable taking into account economic, social, cultural and other factors or on the basis of conventions or agreements between Canada and the source country. Sponsorship of relatives was made possible but a broader degree of relatives could be sponsored from Europe, the Americas and some countries of the Near East than from the rest of the world.

In 1962, immigration regulations were completely recast providing for the admission of any person in his own right on the basis of his education, training, skill or other special qualifications regardless of his race, citizenship or country of origin. The regulations with respect to sponsorship continued to provide for a wider degree of relatives to be admitted from Europe, the Americas and the Near East, although it should be pointed out that these restrictions were geographical in nature and applied to all persons regardless of ethnic origin who were nationals of and resided in the less favoured areas.

In 1967, two significant events took place in the development of Immigration legislation.

First of all an Immigration Appeal Board, independent of the department was established. Primarily it hears appeals against deportation orders issued by the Immigration division's special inquiry officers. It has the power of dismissing or allowing appeals as well as staying the execution of deportation orders. The board also hears appeals from Canadian citizens whose application for the admission of their dependents from other countries has been refused or where visas for their dependents have been denied overseas. It is believed that this generous

feature of allowing appeals against refused applications and visas is not imitated in the legislation of any other country.

The second event in 1967 was the passing of a new set of immigration regulations governing the admissibility of immigrants to Canada. The main features of these new regulations are:-

- (a) They are universal in application and the criteria governing the selection of immigrants are spelled out in detail in the form of nine factors of which eight are entirely objective. This will make it possible for immigration officers to apply the standards in the same objective way in all areas of the world.
- (b) The regulations formally confirm that Canadian citizens or permanent residents of Canada are entitled to bring their dependents to Canada.
- (c) The categories of more distant relatives who can be applied for have been increased and they may be applied for from any part of the world without the geographical restrictions which previously existed.

Immigrant arrivals in Canada for the years 1949-1967 inclusive totalled 2,660,379. (7)

Article 16

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

In Canada, men and women have the right to marry and to found a family. In the common law provinces (all except Quebec), marriage may be solemnized by an authorized official such as a justice of the peace. In Quebec, solemnization normally requires the services of a minister or priest of a church.

According to the Criminal Code, bigamy and polygamy are prohibited in Canada. The Code also prohibits marriage without the consent of the woman. If a female is under 16 years of age, the consent of the parent, guardian or other lawful authority is necessary.

A husband is under a legal duty to provide the necessities of life for his wife and children. Parents, foster parents, guardians or heads of a family also are required by law to provide the necessities of life for children under 16 years of age.

The Criminal Code provides that cohabitation or recognition of a woman as a wife is *prima facie* evidence that the parties thereto are lawfully married in respect to the legal duty to support the wife. Similarly, any recognition of a child as one's child is *prima facie* evidence that this is so, for purposes of support.

Rights of married women in Canada vary from province to province.

In the common law provinces, women's property rights are protected by legislation and women normally are separate as to property.

In Quebec, women normally are common as to property unless they elect to be separate as to property or some variation thereto, prior to marriage.

Prior to 1964, in Quebec, a wife owed obedience to her husband and was obliged to live with her husband and to follow him wherever he wished to reside. Amendments in 1964 provided that the wife participate with the husband in ensuring the moral and material control of the family, in providing for its maintenance and in bringing up children. When the husband is incapacitated or absent, the wife can exercise these functions. In addition, a wife now can obtain authorization from a superior court to reside elsewhere if the husband's choice exposes the family to physical or moral danger.

Capacity of Wife as to her Civil Rights

Before 1964 in Quebec, a wife could not appear in judicial proceedings without her husband or his authorization, even when she was separate as to property. (This did not include legal separation as to bed and board, in which event a wife had full legal capacity.) In addition, she could not give, accept, alienate or dispose of property inter vivos, nor otherwise enter into contracts or obligations, unless her husband became a party to the deed or gave his consent in writing. If the husband refused to give this authorization, the wife could apply to court to obtain such authorization.

If the wife was separate as to property, she retained the administration of her moveable or immovable property, the free enjoyment of her revenues and the right to alienate, without her husband's authorization, her moveable property. To alienate her immovables or accept a gift of immovables, a wife required her husband's authorization. A wife also could not become a public trader without her husband's authorization.

Since the 1964 Civil Code amendments, however, a married woman in Quebec now has full legal capacity as to her civil rights, subject only to any restrictions arising from her matrimonial property regime.

Under community of property, for example, the husband still administers community property but requires his wife's consent to dispose, sell or alienate immovable property of the community. He does not require her consent for community moveables. The wife now has the full administration of her private property but must turn over to the community the revenue she receives

therefrom. She still cannot alienate or dispose of her immovable without her husband's consent.

Adoption

The status of adopted children is defined in the domestic laws of the provinces, all of which were enacted prior to 1948. Legal adoption is statutory in Canada. Outside of Ontario, residence is the basis of jurisdiction. In Ontario, both domicile and residence are required.

In most cases in the provinces and the territories, investigation by a child welfare officer and a trial period of residence together by the child and the new parent precedes the formal application to court for an adoption order. Residence may be outside the province or territory, except for Ontario. In Ontario, prior to 1955, domicile in Ontario was necessary. Since then, however, Ontario requires domicile of the applicant parent anywhere in Canada and residence of both child and new parent within Ontario.

Saskatchewan and the territories require residence within the province or territory for one year. In 1954 the Yukon introduced the residence requirement as "lived in" not "resided in" and this is not a condition precedent to jurisdiction. In Quebec, in most cases, domicile of either applicant or child is sought but adoption orders may be granted where one or other of the applicant or child is not domiciled in the province. In Alberta, New Brunswick and Nova Scotia, residence of one of two parties to adoption may be a condition precedent to jurisdiction. British Columbia and Manitoba do not have jurisdiction provisions and in Prince Edward Island, although no basis for jurisdiction is prescribed, 1951 legislation recognizes that applications for adoption may be made by non-residents of the province. Newfoundland does not require residence.

Different courts have jurisdiction in different parts of Canada, depending on the residence of the applicant.

Since 1961, three provinces have changed their laws on the question of religion to provide some flexibility.

In Alberta the natural mother may stipulate that her child be raised in a home of a given faith. The stipulation is valid for a year. If the child is not placed by then, the child welfare branch may place it with any suitable family if it has not been christened in its mother's faith.

Manitoba legislation is similar. A court may waive the stipulation after a "reasonable time."

Religion of child and adoptive parents must match in Saskatchewan, but since 1966 it has been possible for the natural mother to abstain from naming a religion. If she does, the choice is left to officials.

Nova Scotia, Prince Edward Island and Quebec are the only provinces that specifically insist on matching religions.

Consequences of Adoption

In most provinces and the territories, the natural parent is divested of all legal rights and freed of all legal obligations and duties respecting the child. The child is made of the adopting parents and they must assume full obligations towards the child. In Saskatchewan, as of 1953, the child is made of the new parents as if born to them in lawful wedlock and imposition of duties and obligations is not necessary as a condition of adoption. Ontario specifies that all rights, obligations and liabilities, including the right to consent to marriage are extinguished for the natural parents and become exercisable by the adopting parents.

Legitimacy and Illegitimacy

Since 1948, in Alberta, Saskatchewan, Manitoba and British Columbia, illegitimate children could not inherit from ascendants or collaterals. The term child in statutes meant legitimate child only, unless the context indicated that illegitimate children were intended to be included. In addition, ascendants or collaterals could not inherit from an illegitimate child. His only heirs were his issue. If he died unmarried and intestate, his property passed to the Crown by "escheat." In Saskatchewan, however, illegitimate brothers or sisters could inherit his real property as next-of-kin if the mother predeceased.

In 1955, the "Intestate Succession Act" of Alberta precluded the father of a deceased illegitimate child from a share of the estate. The 1954 "Devolution of Estates Act" of Manitoba prohibited application to illegitimate children.

In Saskatchewan, Manitoba and Alberta, legislation provides for maintenance by the putative father of an illegitimate child, under affiliation proceedings. All provinces permit application

for affiliation. In Manitoba, however, the husband is responsible for the maintenance of all children including illegitimate ones.

In Ontario, a mother cannot legally appoint a testamentary guardian for her illegitimate child. By the 1950 "Legitimation Act" she has a *prima facie* right to the custody of her illegitimate child until the age of 14. An illegitimate child can become legitimized by subsequent marriage of the parents. (8)

In Quebec, legitimation takes place when the parents marry subsequently if the child is declared legally to belong to the two consorts. Legitimation does not accrue if the child is the issue of an incestuous or adulterous relationship. A legitimized child has the same rights from the moment of the marriage ceremony as if he were born of the marriage. His rights also pass to his own legitimate children. A natural illegitimate child, by forced or voluntary acknowledgment by the father or mother, has the right to demand maintenance.

Several changes have taken place in the Legitimation Acts of the provinces since 1948.

In 1961 Ontario provided that a legitimized child preserves his rights if the marriage becomes void or is annulled after legitimation.

In 1951, Nova Scotia provided for the mother to inherit from the illegitimate child and in 1954 legitimation was provided under the "Children of Unmarried Parents Act."

In Newfoundland in 1952 an illegitimate child and the mother obtained the right to succeed upon the intestacy of the other.

In 1952, New Brunswick provided that the child remains legitimized even if the marriage of its parents becomes void because a former spouse is alive. The right of inheritance by parents and offspring of legitimized children also was provided.

Divorce

Divorce can be obtained in Canada only on grounds of adultery and, before recent amendments, a woman could sue her husband only in the courts of the province of domicile. Now she can sue him anywhere in Canada.

If approved, amendments introduced in 1968 will permit divorce action on grounds of cruelty, desertion, separation, negligence and adultery.(9) (Such amendments were approved)

Protection of the Family

By 1948, all provinces and the federal government had established government agencies to administer legislation providing for the protection of the family. The laws vary from province to province and include such legislation as:

Children of Unmarried Parents Act	Poor Relief Act
Juvenile and Family Courts Act	Lunacy Act
Parents Maintenance Act	Mothers Allowance Act
Homes for the Aged Act	Adoption Act
Old Age Pension Act	Child Welfare Act
Care of Blind Persons Act	Apprentice Act
Care of Deaf and Dumb Persons Act	Protection of Children Act
Schools Act	

The following outline describes some of the provisions of various Acts:

Apprentice Act - provides for

- 1) age at which children may be bound as an apprentice or servant, generally between 14 and 21 for the male and 14 to 18 for the female,
- 2) inquiry by the parents as to treatment of the child,
- 3) punishment of an apprentice guilty of misconduct.

Child Welfare Act - provide for

- 1) care of the child, including the defective or neglected child
- 2) foster homes
- 3) juvenile courts
- 4) maternity homes
- 5) protection of child's religion

Children of Unmarried Parents Act - provides for

- 1) legitimization of the child by subsequent marriage of parents
- 2) mother to inherit from the child
- 3) the father's civil liability for the child, including maintenance.

Children's Maintenance Act - provides for

- 1) liability of parent and guardian to support the child.

Children's Protection Act - provides for

- 1) child not to be admitted to a bawdy house
- 2) cruel treatment by a parent
- 3) admission of child to dance halls.

Article 17

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

General

In Canada there is no constitutional principle that prevents the expropriation of private property without compensation. The owner has no inherent right such as exists in the United States to just and reasonable compensation for the loss of his property by state expropriation. He has only such rights as may be conferred upon him by statute. However, in practice the general rule is that compensation is given.

Federal Legislation

There are a number of federal statutes under which the federal government may expropriate property. Some of these are: the Expropriation Act R.S. 1952, c.106, section 24 of which makes provision to pay damages; The Pipe Line Act R.S. 1952, c.211, section 8 of which provides for compensation for any damage to property; The Railway Act R.S. 1952, c.234, section 234 of which provides for compensation for damages; The War Measures Act R.S. 1952, c.288, section 3 of which provides for appropriation, control, forfeiture and disposition of property, section 7 provides that any claim for compensation shall be referred to the Exchequer Court, or other court in a province as may be decided by the Minister of Justice; Dominion Water Power Act, R.S. 1952, c.90, section 6 of which provides for expropriation of property and section 8 provides for compensation.

In the Indian Act, R.S. 1952, c.149, section 35 provides that Indian reserve land may be taken or used by local authorities with the consent of the Governor in Council. In 1951 an amendment to the Indian Act (1951 c.29, s.29) provided that Reserve lands are not subject to seizure under legal process. Seizures of property may be made under the Customs Act R.S. 1952, c.58 and the Post Office Act, R.S. 1952, c.212.

The Criminal Code provides for the seizure of many items of property under a variety of sections. Examples are: Section 150 provides for seizure of publications deemed obscene; section 405

provides for seizure of counterfeit money and machines, tools, instruments and other materials used in making counterfeit money; section 171 provides for seizure of materials in a gaming house; section 88 provides for seizure of a firearm from a juvenile and section 96 provides for the seizure of anything which may have been used in committing an offence; section 244 provides for the seizure of goods which have been unlawfully imported or transported in Canada.

Protection of Property

Sections 38-41 of the Criminal Code provide that anyone in possession of moveable property or a dwelling may use whatever reasonable means may be necessary to protect this property. The Copyright Act provides for the protection of literary and artistic properties of a person. The Patents Act provides for the protection of a person's rights to an idea or invention he owns.

Provincial Legislation

Manitoba enacted a uniform Expropriations Act in 1954 which gives a clear right to owners to compensation for land taken or injuriously affected.

Alberta enacted the Expropriation Procedures Act in 1961 which declares that the Crown be bound to provide compensation.

Ontario passed a similar statute in 1962-63 called the Expropriation Procedures Act which provides inter alia that a firm offer be made to an owner whose land has been expropriated.

In 1961 British Columbia appointed a Royal Commission to investigate expropriation and compensation. The Commission's report was rendered public in 1964.

In addition, all provinces and municipalities can expropriate land under such statutes as Municipal Acts, Highways Acts, School Acts, Hospitals Acts, Hydro Power Acts, Parks Acts, etc., or the equivalent of these statutes. These statutes generally define how an owner may be compensated for land taken or injuriously affected.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

In Canada all religions are equal before the law, but practices of certain religions would transgress some Canadian laws which reflect the Christian heritage of the majority of Canadians.

Examples of Restrictions on Religious Practice

A person who belonged to a religion which permitted polygamy would commit an offence under Section 243 of the Criminal Code if he practised that aspect of his religion. Those persons who belong to the Jehovah's Witnesses or Christian Science may commit an offence under Section 186 of the Criminal Code when they object to blood transfusions for their children on religious grounds. Muslims and Jews who enjoy days of rest on Fridays and Saturdays respectively may not normally go about their regular employment on Sundays since this could be an infraction of the Lord's Day Act. The Doukhobors have experienced difficulty when they have refused to send their children to school on religious grounds.

Legislation

The Canadian Bill of Rights enacted in 1960 specifically guarantees freedom of religion. Section 161 of the Criminal Code makes it an offence to obstruct or prevent by threats or force a clergyman from the performance of any of his clerical rites or duties. It also makes it an offence for anyone to disturb an assembly of persons met for religious worship.

Section 246 of the Criminal Code provides that anyone who publishes a blasphemous libel is guilty of an offence.

The Saskatchewan Bill of Rights (1965, c.184), section 3 declares the right to "freedom of conscience, opinion, and belief, and freedom of religious association, teaching, practice

and worship." Ontario and Quebec have long had "Freedom of Worship" Acts. However, a freedom of religion clause does not protect the freedom of a person who chooses to have no religion. Such persons may find protection in the Saskatchewan Bill of Rights which declares freedom of conscience.

In Canada the limits of the means and places for propagating one's religious views are not clear. The courts have the responsibility of deciding what these limits should be.

In order to provide more freedom in the area of religion, provincial legislatures such as Quebec, have provided that a person need not take an oath if his religion does not permit it. He can make a solemn affirmation instead. This is provided by the Special Procedure Act (1964 s.6 Que.)

Education

Canadian courts have held that parents cannot withhold their children from school on religious grounds. The principle is that where special provision for denominational schools does not include a particular sect, these children must attend a public school. However, when the only school in the district is public and when it may require criminal observances of a particular faith, the children are not bound to observe the religious exercises of the majority.

In 1964 denominational tax-supported elementary schools were found in Alberta, Saskatchewan, Ontario, Quebec, Northwest Territories and the Yukon. Similar schools for secondary education exist in Alberta, Quebec, Northwest Territories and the Yukon. The Newfoundland educational system is entirely denominational in scope.

British Columbia, Manitoba, New Brunswick, Nova Scotia and Prince Edward Island give no direct tax aid to separate or parochial schools, although even in these provinces separate school supporters receive certain benefits as, for example, free texts in British Columbia. All of these provinces with the exception of Manitoba require separate school supporters to also support public schools. In British Columbia the clergy of a denominational school are declared to be ineligible for the position of superintendent of education or trustee.

Denominational schools in Canada are a historical phenomena resulting from the Protestant-Catholic conflict and are provided for in Section 93 of the BNA Act.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

In Canada the limits of free expression and freedom of the communications media are set by the laws of sedition, defamation, blasphemy, obscenity and censorship as well as the broadcast regulations and postal regulations of the federal government. Provincially, freedom of expression is usually limited to laws of defamation, and laws regulating advertising in provincial and municipal elections.

Sedition

Probably the most severe limitation on freedom of expression is expressed in the Criminal Code in the laws related to sedition (section 60, 61, 62). The penalty for speaking seditious words or publishing seditious libel is imprisonment for up to 14 years. Section 63 makes it an offence to publish writings that advise or urge insubordination, disloyalty or mutiny. There have been no recent significant changes in these laws.

Defamation

In the laws relating to defamatory libel and blasphemous libel there have been no recent significant changes. These offences are covered in the Criminal Code under sections 246-267 inclusive. Sections 255-266 set out saving clauses including the publishing of judicial and parliamentary proceedings, fair report of public meetings, etc. These saving clauses are primarily for the benefit of the press and other media.

Elections Act Restrictions

In addition to those restrictions on news media cited above, the Canada Elections Act (R.S. 1952 c.39) Section 106 provides regulations forbidding premature publication of results of

polling. Section 99 of the same Act forbids political broadcasts on polling day and on the two days immediately preceding it.

Obscene Materials

Section 150 of the Criminal Code deals with the offence of obscenity. Until 1959 this section did not define what constitutes "obscene matter." Previously all that was considered was that the material in question tended to deprave and corrupt those who were exposed to it. The literary or scientific merits of such material were not admissible evidence. However if the public good was served by this material, no offence was committed, as provided in Section 150 ss.3 "No person shall be convicted of an offence under this section if he establishes that the public good was served by the acts that are alleged to constitute the offence and that the acts alleged did not extend beyond what served the public good."

In 1959 Subsection 8 and subsections 150A and 150B were added. Subsection 8 provides "For the purposes of this Act, any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence, shall be deemed to be obscene." The other subsections provide for the seizure of publications believed obscene and their return to the owner if judged not obscene. These amendments also forbid a "tied sale" of obscene material.

Section 151 provides restrictions on the printing of indecent matter in relation to judicial proceedings. Section 152 provides restrictions on the staging of immoral, indecent or obscene performances. Section 153 provides restrictions on the use of the mails for transmitting anything that is obscene, indecent, immoral or scurrilous. With the important exception of the 1959 amendment noted above there has been no recent significant change in the law related to obscenity.

Hate Literature

Canada recently appointed a Special Committee on Hate Propaganda. The committee submitted a report on their study of Hate Propaganda in 1965. The principal recommendations of the committee were to amend the Criminal Code as follows: 1) Everyone who advocates or promotes genocide is guilty of an indictable offence and is liable to imprisonment for five years. 2) Everyone who incites hatred against an identifiable group, where

such incitement will lead to a breach of the peace is liable to two years imprisonment. There were other less important recommendations by the committee.

Several bills have been presented to Parliament but to date none have become law. Much as Canadians deplore hate literature, there is considerable uneasiness about how the laws of censorship would be applied to such material.

Broadcasting Regulations

In 1964 the Broadcasting Regulations were amended by the Board of Broadcasting Governors. These regulations included the following restrictions:

- "5.(1) No station or network operator shall broadcast
- (a) anything contrary to law;
 - (b) any abusive comment on any race or religion;
 - (c) any obscene, indecent or profane language;
 - (d) any false or misleading news;
 - (e) any program on the subject of birth control unless that program is presented in a manner appropriate to the medium of broadcasting;
 - (f) any program on the subject of venereal diseases unless that program is presented in a manner appropriate to the medium of broadcasting;
 - (g) any advertising content in the body of a news broadcast and for the purpose of this section, a summary is deemed to be a part of the body of the broadcast;
 - (h) except with the consent in writing of a representative of the Board, any appeal for donations or subscriptions in money or kind on behalf of any person or organization other than

- 1) a church or religious body permanently established in Canada and serving the area covered by the station,
 - 2) a recognized charitable institution or organization,
 - 3) a university,
 - 4) a musical or artistic organization whose principal aim or object is not that of monetary gain.
- (i) any program involving a lottery, gift enterprise or similar scheme in which the contestant or competition pays any sum of money in order to be eligible for a prize."

The following amendment was added to the above regulation in 1965:

- "(k) any telephone interview or conversation with any person, unless that person's verbal or written consent to the interview being broadcast has been obtained prior to the broadcast of the interview."

The following regulations apply to political broadcasts:

- "6. (1) Each station or network operator shall allocate time for the broadcasting of programs, advertisements or announcements of a partisan political character on an equitable basis to all parties and rival candidates.
- (2) Political programs, advertisements or announcements shall be broadcast by stations or network operators in accordance with such directions as the board may issue from time to time."

In addition there are fairly strict regulations relative to the advertising of spirituous liquors, beer and wine.

The following regulations apply to foreign language broadcasts:

- "17. (1) No station shall broadcast programs in a language other than French or English for periods that in the aggregate
- (a) exceed 15 per cent of the broadcast time per week of the station; or
- (b) where the licensee of the station has been authorized by the board under this section to appropriate a larger percentage of the broadcast time of the station for programs broadcast in a language other than French or English, exceed

the percentage of its broadcast time that the Board has authorized the licensee to appropriate for such programs.

The above regulations apply to A.M. Radio Broadcasting, but the regulations for F.M. Radio and Television Broadcasting are essentially similar.

Postal Regulations

The Post Office Act has provisions for preventing the use of the mails under certain circumstances as follows:

"7.(1) Whenever the Postmaster General believes on reasonable grounds that any person

- (a) is, by means of the mails,
 - 1) committing or attempting to commit an offence, or
 - 2) aiding, counselling or procuring any person to commit an offence, or
- (b) with intent to commit an offence, is using the mails for the purpose of accomplishing his object,

the Postmaster General may make an interim order (in this section called an "interim prohibitory order") prohibiting the delivery of all mail directed to that person (in this section called the "person affected") or deposited by that person in a post office.

Film Censorship

In each province there is, in the respective Theatres Acts or their equivalent, provision for the censorship of films. Most often a Board of Censors is appointed which views every film that can be shown in the province. These Censors are empowered to remove by cutting or otherwise any portion of a film deemed objectionable. Films which are approved must be so stamped before exhibition. The usual objections to films relate to scenes of an immoral or obscene nature, giving details of a criminal action, depicting criminals as heroic characters, or scenes which may be suggestive of evil in the minds of children.

In the provinces of British Columbia and Ontario there is provision for requiring that a proportion of films available for distribution be of British manufacture and origin, which proportion shall be fixed on a yearly or monthly basis.

Article 20

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Freedom of assembly and association has been defined as the right to join with others of similar purpose in the pursuit of lawful objectives. Canadians have long enjoyed this freedom relating to their right to belong to political parties of their choice, and to other organizations of peaceful character. Canadians also enjoy the right to join unions for the protection of their interests.

Legislative Protection

At present, the Canadian Bill of Rights (1960 c.44, part 1, sect. 1) declares that "in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, color, religion or sex.....freedom of assembly and association." Similarly, the Saskatchewan Bill of Rights (R.S.S. 1965, c.378, sect. 5) provides the right to free association and the right to membership in professional and trade associations. Ontario (1961-62 c.93), New Brunswick (1967 c.13) and Alberta (1966 c.39) also specifically state in their respective recent Human Rights Acts that no trade union shall exclude from membership or expel or suspend any person because of race, creed, colour, etc.

Union Association

The Criminal Code of Canada in Section 367 clearly makes it an offence for an employer to refuse to employ or dismiss from his employment any person for the reason only that that person is a member of a union. Section 367 further provides penalties against the discouragement of union membership through intimidation or other means by an employer.

Several provinces have passed legislation relating to the right of free association in the labour field. An amendment to the Quebec Labour Relations Act (1953-54, c.10, s. 1 Quebec) prohibits Communists from acting as organizers or officers in

Trade Unions. Newfoundland in 1959 enacted two statutes (The Labour Relations (Amendment) Act, 1959 No. 1 and The Trade Union (Emergency Provisions) Act, 1959 No. 2) which allows the government to dissolve any trade union in the province which is a branch of a trade union outside the province, whose officers have been convicted of a variety of offences. The second statute revokes the certification of the International Wood Workers of America as a bargaining agent. Prince Edward Island in 1948 passed an amendment (1948 c.38) to its Trade Union Act in a similar attempt to prevent foreign or outside control of provincial labour unions.

Unlawful Assemblies

The Criminal Code provides severe penalties for persons who engage in unlawful assemblies which degenerate into riots. Section 68 states "A justice, mayor or sheriff who receives notice that, at any place within his jurisdiction, 12 or more persons are unlawfully and riotously assembled together, shall go to that place and, after approaching as near as safely he may do, if he is satisfied that a riot is in progress, shall command silence and thereupon make or cause to be made in a loud voice a proclamation in the following words or to the like effect:

"Her Majesty the Queen charges and commands all persons being assembled immediately to disperse and peacefully to depart to their habitations or to their lawful business upon the pain of being guilty of an offence for which, upon conviction, they may be sentenced to imprisonment for life. God save the Queen."

Section 69 states that everyone is guilty of an indictable offence and liable to imprisonment for life who opposes or hinders the person making the proclamation in Section 68 or who does not leave such place within 30 minutes when he has reasonable ground to believe the proclamation would have been made if there had been no hindrance.

The Criminal Code also makes provision (Section 71) for the Governor in Council to prohibit assembly of persons for the purpose of drilling or training in the use of arms or practising military exercises.

The other major restriction which affects freedom of assembly is Section 366 which provides penalties for anyone who without lawful authority, for the purpose of compelling another person to abstain from doing what he has a lawful right to do,

watches and besets the dwelling house or place of business of that person.

Protection of Lawful Assembly

The Criminal Code (Sect. 161) provides penalties for anyone who disturbs or interrupts an assembly gathered for a religious worship or a moral, social or benevolent purpose.

Persons compelled to join organizations

There are no laws in Canada which compel a person to join an organization except for those organizations which were formed to protect and regulate certain occupations. These are, of course, those trade unions which have a "closed shop" provision, the Law Societies or Barristers Societies in each province, the Colleges of Physicians and Surgeons, and other similar associations in each province which regulate and discipline their respective professions. With few exceptions such organizations have existed for many years.

Since the Second World War a small number of unions have had "closed shop" provisions which in specified areas prevent a person from working at a particular trade unless he joins the trade union concerned. British Columbia recently passed legislation (1961 c.31) that provided that a trade union can be certified as the bargaining agent for a group of employees regardless of the wishes of a minority of employees within the group, and can then make a collective bargaining agreement which will bind each employee and can compel membership in the union as a condition of employment.

Article 21

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Canada's parliamentary system of responsible government is closely patterned after the British system, although there are three levels of government here, federal, provincial and municipal. With few exceptions, any adult, man or woman aged 21, can vote by secret ballot or stand as a candidate for any office in any of the three levels of government.

Qualifications of Elections - Federal

In June of 1948, a new federal Elections Act was passed which repealed some of the clauses which had disqualified certain classes of people. At the time of the adoption of the Universal Declaration of Human Rights in December 1948, however, the following classes of persons were still denied the vote and also the right to be a candidate for office.

1. All Eskimo persons whether born in Canada or elsewhere.
2. All Indian persons who lived on reservations and who had not served in the military forces of Canada in one of the two world wars.
3. Those persons known as conscientious objectors who refused to bear arms because of their religious beliefs.
4. Judges appointed by the Governor in Council and electoral officials responsible for conducting elections.
5. Persons who suffered from mental diseases and persons who were guilty of corrupt or illegal practices.

In 1968, the discriminatory provisions of 1, 2 and 3 above had all been repealed. Every person who qualifies as an elector also qualifies as a candidate for office.

Qualifications of Electors, 1948 - Provincial

In the provinces, Indians were generally disqualified in 1948 except for the province of Nova Scotia. Other provinces allowed only those Indians who had served in Canada's military forces to vote. In the provinces of Ontario, Nova Scotia, Newfoundland (10) and New Brunswick, persons who were recipients of charitable support were disqualified. British Columbia disqualified Japanese and Doukhobors who had not served in the military services of a member of the British Commonwealth and all persons who did not have an adequate knowledge of the English or French languages. Although most provinces allowed persons to vote at age 21, old persons. in one case, that of Newfoundland, males could vote at age 21, but females were disqualified until age 25.

Qualifications of Electors, 1968 - Provincial

Today most of the above disqualifications have been repealed or amended. Indians can vote in every province in Canada except Quebec, where they are still disqualified. In British Columbia persons are disqualified if they do not have an adequate knowledge of the French or English languages. In all provinces, persons in penal institutions or mental institutions are disqualified, as are judges and electoral officers. As in federal elections, persons who qualify as electors also qualify as a candidate for office.

Access to Public Service

Canada has long operated a merit system in its recruitment for the public service. In general, an applicant must be a citizen and fluent in either French or English largely depending on geographic location. Special consideration is given to those who have served on active service in Canada's military forces in the two world wars providing their qualifications in other respects are equal to those of other candidates. Similar general qualifications apply to employees of the provincial governments.

Articles 22 and 25

- 22 - Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.
- 25(1)- Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) - Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Since 1948 Canada has made considerable progress in extending and improving its social security system. This has been a continuing process involving the development of new programs for social security areas not previously covered or covered inadequately, and involving reorganization and restructuring of programs which were developed to meet existing and emerging social needs.

Mother's Allowance

The Manitoba Government passed legislation to assist needy mothers and their dependent children in 1916, and in the years that followed other provinces passed similar legislation. Assistance to persons in need has long been recognized as a basic responsibility of provincial and municipal governments.

By 1948, eight provinces had established programs of financial assistance to needy mothers with dependent children where the father was disabled, dead, or absent. In 1949, Newfoundland became the 10th province and along with Prince Edward Island instituted a program of mothers' allowances comparable in coverage to those of other provinces.

Income Security

The first major intervention by the federal government in the field of income security occurred in 1927, when the Old Age Pension Act was passed. The program provided for federal sharing in the cost of provincial pensions to persons 70 years of age and over who qualified under a means test, which took into account both the income and assets of the applicant. In the years that followed, this approach was the basis for similar legislation for blind persons (in 1937), for old age assistance commencing at the lower age of 65 (in 1951) and for allowances for totally and permanently disabled persons (in 1954).

The era of greatest growth of social security in Canada has been the period during and following the Second World War. This period has coincided with a period of great industrial expansion and economic growth and, under these conditions, it was possible to finance much more easily the new and expanded social measures needed to deal with the many and varied social and economic problems which had been emerging and had become more pressing.

At this time a new approach to income security was adopted. Programs were introduced providing for universal payments to virtually all persons either below or above a specified age, redistributing income in favour of families with children and youths on the one hand and of older persons on the other.

In the field of old age income security Canada introduced universal flat-rate old age pensions in 1952, which was one of the most ambitious ventures Canada has ever undertaken in the social security field. Under this measure, a pension of \$76.50 a month is now paid to all persons 67 years and over, subject only to a minimum duration of residence qualification. (In 1970, age 65 applied)

The other two programs providing universal payments are Family Allowances which commenced in July 1945 and Youth Allowances, an extension of Family Allowances, which started to function in September 1964.

To complement these universal payment programs, the federal government established the Canada Pension Plan in 1965, a comprehensive social insurance program which makes provision for retirement, disability and survivors pensions. Contributions to this program began in 1966. The first retirement benefits were payable in 1967 and the first survivors' benefits were payable February 1968. The earnings-related retirement pension provided under the Plan is added to the flat-rate Old Age Security pension. The Canada Pension Plan legislation, in line with our political structure as a federal state, provided that the Plan

would not apply in any province establishing a comparable pension plan. As the province of Quebec has introduced such a plan, the Canada and Quebec Pension Plans are co-ordinated to provide one nation-wide system of contributory pensions. Under this system an effort has been made to cover the whole labour force on a compulsory basis. The pensions will be automatically adjusted for changes in wage levels and increases in the cost of living. There is, however, a 10-year transitional period until full retirement benefits will be payable.

Another approach to the provision of income security for the aged was introduced in December 1966 with the passage of legislation providing for a guaranteed income supplement for all old age security pension recipients who would be assisted only slightly or not at all by the Canada and Quebec Pension Plans because of their age. In 1967, they were guaranteed a minimum income of \$1260 a year. This concept of a guaranteed minimum income represents an important new feature in Canada's social security program, utilizing an income test, rather than an income-and-assets test, in determining eligibility and the amount of benefit.

Assistance to Needy Persons

Because of the mounting pressures upon the municipal governments, their restricted tax bases, and the pockets of unemployment which were concentrated in certain industrial areas, the provincial governments gradually came to assume during the early 1950's a larger proportion of costs of assistance to needy persons. In response to increasing pressures from the lower levels of government, the federal government in 1956 passed the Unemployment Assistance Act, under which the federal government reimbursed the provinces for 50 per cent of the costs of assistance given to needy unemployed persons within the province by the provincial and municipal authorities. Recipients of mother's allowances were excluded from federal sharing as were 0.45 per cent of the population who were considered to be unemployable. This legislation was amended the following year so that the federal government would share the cost of assistance not only for employable unemployed persons but also for unemployable. As a result of this federal aid the provincial governments began to assume a larger share of the costs of aid within the province and increased the proportion of reimbursement to the municipalities. Some provinces also assumed full responsibility for assistance to needy persons with long-term need. Thus, in a number of provinces, the provincial allowances program which had formerly comprised aid to needy mothers with dependent children was extended to cover several other categories of persons with long-term need.

Unemployment Insurance

An unemployment insurance program has been in operation since 1941. The insurance fund is maintained by matching contributions from employers and employees and a further contribution from the federal government equal to one-fifth of what employers and employees contribute. Appeal facilities are available to persons whose claims are disallowed for failure to satisfy qualifying requirements. All the larger cities in Canada have boards of referees for hearing such appeals.

Since 1948 the program has been widened to include a number of industries and employments that were previously excluded. These include lumbering and logging in 1950; forestry and some fringe employments in agriculture and horticulture in 1956; fishing in 1957; and farm workers in 1967.

As average employee earnings have risen over the years, the weekly benefit rate has been adjusted upward. Other changes include:

- a) Dating from 1950, a system of seasonal benefit, payable during the winter months to persons unemployed at that season and who either cannot qualify for regular benefit or have exhausted their entitlement.
- b) In 1953 a provision was added that an unemployed person, who became incapacitated for work by illness, injury or quarantine after beginning to receive benefits, could continue to receive payments.
- c) In 1955, the benefit formula was liberalized so as to provide somewhat easier qualification.

Some comparative figures are:

	<u>1948</u>	<u>1967/68 (11)</u>	
Est. no. of persons in insurable employment	\$ 3,408,000	\$ 5,334,000	
Average weekly wages and salaries	\$ 40	\$ 100	
Maximum weekly rate of benefit			
1) With dependents	\$ 18.30	\$ 36	
2) Without dependents	\$ 14.40	\$ 27	
Total number of initial claims for fiscal year	\$ 619,099	\$ 1,202,755	
Total amount of benefit paid for fiscal year	\$34,947,000	\$307,007,000	

About 80 per cent of all employees are compulsorily covered under this program which is administered by the federal government.

Public Assistance

The most significant development in public assistance occurred in 1966 with the passage of the Canada Assistance Plan which had effect from April 1, 1966. The plan extended federal cost sharing to a number of programs not previously included -- mothers' allowances, child welfare, medical care costs for needy persons, and the costs of providing certain welfare services. All provinces participate in the plan.

This new Act had the effect of stimulating further provincial developments which resulted in increased emphasis upon preventative and rehabilitation services, and the assumption by all provinces of increased responsibility for standards of assistance, including rates of assistance.

Since the Canada Assistance Plan provides for the sharing of costs through one comprehensive program and enables the provinces, at their option, to phase out other shared-cost programs, a number of provinces have taken advantage of this provision to base all allowances on one criterion - need.

Allowances are now generally calculated on the basis of a needs test which takes into consideration individual need and resources available to meet that need. Individual need is calculated according to a pre-determined schedule set by the respective provincial governments. The determination of rates varies, therefore, among provinces and within provinces according to locality, since in some provinces certain items of basic need such as rent are not fixed, but vary according to local conditions.

In general, the plan has resulted in higher standards of administration, increased allowances and a trend toward the elimination of categories. Assistance may not be denied because of lack of residence requirements. Provision for appeal procedures must be made by all provinces participating in the plan, and those provinces which did not have such provisions are taking steps to include them in revised legislation.

Benefits Under Certain Federal Programs

(i) Family Allowances

\$6.00 monthly for a child under age 10.
\$8.00 monthly for a child age 10 up to age 16.

(ii) Youth Allowances

\$10.00 monthly for a child age 16 or 17 who is attending school or precluded from doing so by physical or mental infirmity.

(iii) Old Age Security Pension

\$76.50 monthly effective January 1968 to persons age 67 and over meeting minimal residence requirements.

(iv) Guaranteed Income Supplement

In 1968, up to a maximum monthly supplement of \$30.60. The maximum supplement is reduced by \$1 for every \$2 of monthly income as determined under the Income Tax Act but not including the Old Age Security pension or any supplement which may have been received.

(v) Canada Pension Plan

The following pensions and benefits are those which would result if a contributor had made contributions on the maximum permissible earnings for the full period up to retirement or death.

(a) Retirement pension:

\$21.84 monthly. This is the amount payable on February 1, 1968 for a person who has retired in and contributed for the month of January, 1968. This retirement pension is one payable during the 10 year transitional period of the plan and is based on the conditions described. As the plan matures in this period the amount of the retirement pension will increase so that by 1976 the maximum retirement pension payable will be \$106.25 per month.

(b) Widow's pension:

Full widow's pension - \$64.82 monthly payable February 1, 1968 on behalf of a deceased contributor who contributed for January 1968.

Aged widow's pension - \$62.91 monthly payable February 1, 1968 for the same as the full widow's pension and based on 60 per cent of the husband's retirement pension.

(c) Orphan's benefit:

\$25.50 for each of the first four children and \$12.75 for the fifth and each succeeding child.

(d) Death benefit:

\$510.

Health Services

The Department of National Health and Welfare is the chief federal agency in health matters, but important treatment programs are also administered by the Departments of Veterans Affairs and National Defence. The Dominion Bureau of Statistics is responsible for the collection, analysis and publication of certain health statistics. The Medical Research Council and the Defence Research Board administer medical research programs as does the National Health Department. The Department of Agriculture has certain health responsibilities connected with food production.

In addition to its broad program of assistance, the Department of National Health and Welfare controls the quality and standards of food and drugs, including narcotics, operates quarantine and immigration medical services, meets international health obligations and provides health services to Indians, Eskimos and other special groups. It advises on the visual eligibility of applicants for blindness allowances and cooperates with the provinces in the provision of surgical or remedial treatment for recipients of these allowances. Programs of health supervision and counselling are provided for members of the federal public service and to the Department of Transport in all matters pertaining to the safety, health and comfort of aircrew and passengers.

Co-ordination with the provinces on health matters is facilitated by the Dominion Council of Health, the principal advisory body to the Minister of National Health and Welfare. Its membership includes the Deputy Minister of National Health who acts as chairman, the chief health officers of each province, and five appointees representing the universities, labour, agriculture, French and English-speaking women's organizations. Federal-provincial technical advisory committees of the council deal with specific aspects of public health, mental health, child and maternal health, nutrition, public health laboratories, and so on.

Provincial and local health services may be grouped in four broad categories: general public health services, primarily of a preventative nature; services for specific diseases or disabilities, combining prevention and treatment; services related to general medical and hospital care; and rehabilitation for disabled persons.

General public health services include such basic areas as environmental health, communicable disease control, child and maternal health, occupational health, dental health, health education, nutrition and public health laboratories.

The provincial services for specific diseases and disabilities include mental health, tuberculosis, cancer, poliomyelitis, venereal diseases, alcoholism and a number of chronic disabilities - heart disease, arthritis, diabetes, visual and auditory impairments, and paraplegia.

Significant advances have been made in health protection through the establishment of a federal health grants program in 1948, a national system of hospital insurance in 1958, a federal health resources fund in 1966. Under the federal hospital insurance legislation, Canada shares the operating costs of hospital care provided by active treatment, chronic and convalescent hospitals under provincially administered hospital insurance plans. All provinces participate in the program which provides that a comprehensive range of in-patient services must be made universally available to all residents within each province; federal sharing in the cost of out-patient services is also provided on an optional basis. This hospital insurance program covers approximately 99 per cent of the total population of Canada. The Health Resources Fund "assists provinces in the acquisition, construction and renovation of health training facilities and research institutions." A sum of \$500,000,000 was set aside for this fund.

In the field of medical care, the Province of Saskatchewan administers a province-wide program of insured physicians'

services. The Provinces of Ontario, Alberta and British Columbia have provincially sponsored or assisted medical care programs. The Province of Newfoundland provides comprehensive medical services at home and in hospital to residents of the outports under its cottage hospital scheme, and a program of medical and surgical care for all children under 16 years of age who are inpatients in hospital. A variety of provisions for health care for social assistance recipients is provided across Canada, and the federal government shares half the cost of such care, including medical care, drugs, prosthetic appliances, optical and dental services, under the Canada Assistance Plan. Special groups such as sick mariners, veterans, disabled workmen, members of the armed forces, Indians and Eskimos have separate medical care program. At the same time, there has been a significant growth in the number of persons covered voluntarily by private medical care insurance in Canada.

A plan of federal fiscal payments to those provinces establishing provincial medical care programs was enacted by Parliament in December, 1966, and came into effect July 1, 1968. This program authorizes the payment of contributions by Canada towards the cost of insured medical care services incurred by provinces pursuant to provincial medical care insurance plans. It also stresses universality and uniformity in the provision of health services for all Canadians.

The Food and Drugs Act of 1953 consolidated many relevant amendments and regulations in this area. Subsequent amendments to the Act, e.g., 1961, with the Narcotic Control Act, have contributed to the protection of the public as a whole in the area of food and drugs.

Indian and Eskimo Health

Although the federal government constitutionally has jurisdiction to legislate for Indians, no specific legislation has ever been passed by Parliament in the health field. Indians, therefore, are subject to provincial legislation relating to health.

Many of Canada's Indians and Eskimos occupied reserves or unorganized territory which in many instances were far removed from all health services. Serious health problems, particularly tuberculosis, diphtheria and diseases of infancy and childbirth caused high morbidity and mortality. Even reserves which were located relatively close to municipal centres of population were denied health services because the Indians were exempted from

personal taxes by federal laws and, living on Crown Lands, they did not contribute taxes which supported local services.

After viewing with alarm the deteriorating health of Indians, the federal government began to provide funds in annually increasing amounts to raise Indian health standards. However, such assistance was intended to be on an interim basis only pending the extension of provincial services to Indians. The temporary nature of the federal health services has not been clearly understood, either by Indians or by the provincial health authorities.

The acceptance of Indians under Provincial Hospital Insurance plans has been a forward step toward removing discrimination in this field. Efforts are now being made to have Indians included in provincial medical care insurance arrangements also. In the public health field there are a number of local health units which are rendering service to all persons in the unit, both Indian and white.

Federal services have encompassed preventative health, medical care and hospitalization, although in the case of the latter, provincial and territorial hospital insurance plans now apply to Indians and similar coverage is contemplated under medical care insurance. Preventative health measures on reserves have attempted to involve participation by Indians, many of whom have been trained as community health workers serving not only to interpret public health practices and sanitation to their people, but also to interpret the views of Indians back to departmental health workers.

Statistics

In Millions of Dollars

	<u>1948</u>	<u>1966</u>
Federal Health Expenditures	59.9	583.9
Provincial Health Expenditures	114.2	1,380.0
Municipal Health Expenditures	25.2	70.0
Total Health Expenditures	199.3	2,033.9
Federal Welfare Expenditures	584.5	2,685.4
Provincial Welfare Expenditures	104.1	600.0
Municipal Welfare Expenditures	24.8	60.0
Total Welfare Expenditures	713.4	3,345.4
Total Health & Welfare		

Expenditures	<u>921.7</u>	<u>5,379.3</u>
As percent of G.N.P.	5.9	9.1
No. of Old Age Security Pensioners	251,865	1,229,561
No. of Children Receiving Family Allowances	3,888,653	6,882,874
No. of Persons Receiving Youth Allowances	nil	412,121
No. of Pensioners Receiving Guaranteed Income Supplement	nil	505,240
Canada Pension Plan Beneficiaries	nil	3,475

International Activities

Particularly since the end of the Second World War Canada's role in international welfare has steadily expanded, somewhat in proportion to Canada's enlarging role in international affairs. This applies both to governmental and private welfare agencies. Canadian specialized personnel have been provided for United Nations assignments abroad, especially in the fields of family and child welfare and social security - areas in which Canada's own welfare services have been highly developed.

Since the inception of the International Conference of Social Work (now The International Council on Social Welfare) in 1928, Canada has been prominent in its organization and development. The council is an international forum for the exchange of views on social welfare. It represents a worldwide medium for the consideration of topics of major interest in the field, such as standards of living, urbanization, social planning. In 1956 Canada provided the president of the council.

Canada joined the International Social Security Association in 1962 when the Department of National Health and Welfare and the Unemployment Insurance Commission became members of that organization. Since that time, the department has taken an active part in the preparation of reports, formulation of concepts and in the participation at I.S.S.A. meetings and assemblies.

Strong delegations were sent to the 15th (1964) and 16th (1967) General Assemblies held in Washington, U.S.A., and Leningrad, U.S.S.R., respectively. Delegates have also attended a number of meetings dealing with actuarial, statistical and economic aspects of social security.

In addition to meeting its obligations under certain long-standing treaties such as the International Sanitary Conventions, the Brussels Agreement of 1924, international agreements with the U.S.A., and by continuing membership on executive bodies of the U.N. and its sub-agencies, such as the U.N. Narcotic Commission, the Scientific Committee on the Effects of Atomic Radiation and others, Canada contributes to promote world health through two main channels. The first, multilaterally, is through its membership in the specialized agencies of the United Nations, primarily the World Health Organization, the International Children's Fund, UNICEF, and indirectly UNTA, FAO, IIO and IAEA. The second means of assistance is on a bilateral basis through the Canadian External Aid Program.

World Health Organization (WHO)

In the multilateral field, dealing first with the financial support of WHC, it is pertinent to note that compared to the first full year of WHO's operation - 1949 - Canada's assessment for the annual budget had risen from \$154,000 in that year to \$1,634,000 for 1968, being the sixth largest contributor of funds to the organization in this year.(12) The U.S.A. provides approximately one-third of the total budget, followed by the U.S.S.R., Britain, France, and the West German Republic. The regular budget of WHO has, in the same interval, increased from \$5 million to nearly \$58 million for 1968.

In terms of health personnel more than 69 Canadian specialists in various health and related disciplines are members of 30 of the WHO expert advisory panels and committees. In the area of specialized training, Canadian medical establishments -- medical schools and schools of hygiene and nursing, clinics and teaching hospitals have provided and continue to make increasingly available training opportunities for WHO fellows and those under other international auspices.

On the professional staff of WHO, at headquarters or in the six regions, the most recent report of the director-general shows the number of Canadians to total 67, or some 3.6 per cent of the total professional staff. It will be recalled that Dr. Brock Chisholm, first Deputy Minister of National Health, was appointed executive secretary of the Interim Commission of WHO and elected its first director-general for a five-year term of office. Further, Canada has served three, three-year terms on the executive board in the 20 years of the existence of WHO, and its members have twice been elected Chairman of the Board.

In general, projects under the Colombo Plan and other bilateral aid programs fall into three main categories - fellowships for advanced training, the provision of expert consultants and capital assistance. As to fellowships in the health field, the count up to and including provisional figures for 1967 shows that a total of 920 health trainees in all areas have come to Canada since the introduction of the first aid program, the Colombo Plan, in 1951. Of these, 616 have concluded their studies and returned to their home countries. The major areas involved are nursing - some 160; public health - approximately 150; and undergraduate medicine nearly 140; the latter mostly in the past six to eight years.

In the second category - experts and advisers - there are almost 250 in all, doctors, nurses, technicians and others included. The nurses rank highest numerically at a little more

than 100, the doctors next with 88 listed, and technicians and others amount to 60 in the total.

Capital assistance includes such projects as the medical textbook program for the libraries of the 86 medical schools in the Colombo Plan countries. This was initiated in 1960 and represented an expenditure of more than \$200,000 for the two-year period involved. Each school received the equivalent of \$2,500 worth of basic medical textbooks.

By far the major item of expenditure under capital assistance has been the provision of Cobalt beam therapy units varying in cost from \$30,000 to more than \$100,000 depending upon the size and capacity of the unit. The latest figures on such units provided are as follows:

<u>Country</u>	<u>Cobalt Therapy Units</u>	<u>Cobalt Sources</u>
India	22	6
Pakistan	2	
Burma	2	1
Thailand	1	
	—	—
Total	27	7

Other contributions in this area have included, as in the case of Vietnam, poliomyelitis vaccine for special immunization programs, emergency hospital units to supplement existing facilities in this field and the construction and equipping of a tuberculosis detection and treatment centre providing some 80 patients-beds, essential medicinal agents and related facilities.

A typical integrated project was that, during the earlier days of the aid program, when in Burma a radiotherapy unit was established in the Rangoon General Hospital with the provision of a cobalt beam in 1957. Canadian radio-therapy experts and a radio-therapy technician took on the operation of the unit while their counterpart Burmese personnel were receiving special training in Canada to provide for its continuing functioning.

Following an on-the-spot study of this project, a second cobalt unit was provided together with the construction of a wing to provide additional facilities and beds for the radiotherapy department of the Rangoon Hospital. Two radiotherapy technicians

were also trained in Canada to assume the duties of the Canadian expert on the conclusion of her attachment.

Food and Agriculture Organization (FAO)

Two months after the end of the Second World War, October 1945, 45 nations met in Quebec City to establish the first United Nations Agency -- the Food and Agriculture Organization. The chairman of the conference was a Canadian -- the Right Honorable L. E. Pearson, at that time Canada's Ambassador to Washington. From being solely an advisory body, FAO has also become, over 23 years, an operational agency assisting countries to prepare development plans, helping to execute major projects, providing some of the backing for projects and aiding countries to obtain finance.

By the end of 1967 FAO had 116 members compared to 42 in 1945. The staff has grown from a handful in December 1945 to 5,300 by the end of 1967 and field experts increased almost four times (from 425 in 1956-57 to an estimated 1,685). Currently there are about 40 Canadians on FAO Headquarters professional staff and more than 100 Canadians have served in other countries as technical assistance experts in agriculture, fisheries, forestry, nutrition, home economics and economics.

Canadians also served on a number of FAO expert panels such as: Panel of Experts on Integrated Pest Control; Working Party of Experts on Pesticide Residues; Seminar of Experts to advise on Soil Map of the World Project; Expert Panel on Nutrition; and Expert Panel on Blood Group Scientists; Advisory Committee on Marine Resources Research; Advisory Committee on Forestry Education; FAO/WHO Expert Group on Vitamin Requirements.

Canada ranks as the fifth largest contributor to FAO--next to the U.S., Britain, France, and Germany. Her share for the years 1968 and 1969 was US\$1,236,129 per annum or 4.13 per cent of the total budget. Her original contribution in 1946 was US\$126,500.

Canada continues to be active both in its support of FAO and its participation in FAO. Canada has been a member of the council, the committee on commodity problems, the fisheries committee, the sub-committee on surplus disposal, the group on grains, since their inception and has participated in the study groups on fats and oils, bananas, and hard fibers, as well as groups involved in food standard work. Canadians have served as chairmen and vice-chairmen of various conferences and committees. Canadians served as chairman of the FAO conference, and the

UN/FAC world food program pledging conference, chairman of the fisheries committee, chairman of the committee on commodity problems, first vice-chairman of the council, chairman of vice-chairman of the North American Forestry Commission, and as chairman of various working parties.

On July 1, 1960, FAO launched a special five-year effort to enable non-governmental organizations to take a more active part in solving the world's food problems. The major objective of the national committees in each country is to inform people on the problems of food and population. The developed nations have the added responsibility of providing money, equipment, and personnel to assist in speeding up self-help programs in developing countries. The Canadian Freedom from Hunger Committee was organized in 1961 and in 1963 became the Canadian Hunger Foundation. This organization now raises all its funds from the private sector.

In 1968, Canada sponsored a world-wide training project to help the people of developing nations make the best use of their own food resources by learning modern methods of food processing, preservation, distribution and marketing.

This program, called the Canada Plus-One Project, served India and South America from Canadian-sponsored food technology centres at Mysore, India and Campinas, Brazil. Ultimately, this unique project will serve all countries of the world where starvation exists. Five-year costs for the project are estimated at \$1,137,500 and this minimum is expected to be raised from food and grocery companies, other businesses, individuals, foundations and citizen groups.

World Food Program

An interesting development in international cooperation in the use of food to aid the needy and to assist in economic development was the establishment of a United Nations Food and Agriculture World Food Program. Canada was one of the prime movers in this proposal. It began operations on January 1, 1963. Canada is the second largest contributor and pledged US\$6.8 million for the three-year period 1963-65, with one third in cash and two thirds in commodities. Canada again pledged US\$27.5 million for the three-year period 1966-68. The Honorable J. J. Greene, Minister of Agriculture, was elected chairman of the pledging conference in January 1966. Another US\$20 million was pledged by Canada at the pledging conference in January 1968, \$15 million in commodities and \$5 million in cash for the two-year period 1969-70.

The commodities contributed by Canada under the WFP include: wheat, flour, beans, peas, canned and dried fish, skim milk powder, cheese, butter oil, butter, evaporated milk, whole milk powder and egg powder. The total number of countries receiving Canada's assessment since 1963 is 47 and emergency aid, 20. These include: Afghanistan, Algeria, Barbados, Basutoland, Bolivia, Brazil, British Guiana, Burundi, Central Africa, Ceylon, Chile, Colombia, Congo, Costa Rica, Cuba, Ethiopia, Gabon, Guinea, Honduras, India, Indonesia, Iraq, Jamaica, Jordan, Kenya, Korea, Lebanon, Mali, Mauritania, Mexico, Morocco, Nepal, Pakistan, Peru, Philippines, Senegal, Sudan, Syria, Taiwan, Tanzania, Tobago, Tunisia, Turkey, U.A.R., Yemen, Zambia and Greece.

United Nations Children's Fund (UNICEF)

On December 11, 1946, by resolution of the UN General Assembly, UNICEF was established to bring emergency relief to children who were victims of the war in Europe. UNICEF was then and continues to be dependent upon voluntary financial contributions from government and voluntary associations. By 1950, conditions had changed considerably and UNICEF was reconstituted to respond to these changes and the emphasis was put on aid to developing countries on a long range basis. UNICEF services are channeled into the areas of health, nutrition, family and child welfare and education.

Canadian Government Contributions to UNICEF

The Canadian government's contributions to UNICEF for the period 1947-1969 inclusive totalled \$18,570,000. In addition, Canada has had a representative serving on the executive board of UNICEF continuously with the exception of the 1959-61 period. Dr. J. W. Willard, Deputy Minister of National Health and Welfare, is currently Canada's representative on the Executive Board of UNICEF.

Canadian Programs for Disabled Persons

	<u>Expenditures</u>	<u>Persons</u>
1961-62	\$ 368,186	2,765
1962-63	748,600	2,968
1963-64	604,997	3,495
1964-65	655,001	2,583
1965-66	799,894	3,981
1966-67	662,042	4,581
	\$ 3,838,720	20,373

In addition to the above programs which are designed specifically for the disabled persons, this category is also assisted through the regular programs of the Department of Manpower and Immigration. Many receive training under the Occupational Training for Adults Act. Others are assisted in finding employment through the placement services of the Canada Manpower Centres of the department.

Article 23

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

History

The tradition of trade unions as a protective measure for skilled workers has existed in Canada for some 150 years. Initially these unions were local in character, but in the latter part of the 19th century unions became more international by affiliating with unions in other countries, especially the United States. Towards the end of the century unskilled workers became involved in the union movement. In 1948, 978,000 workers in Canada belonged to unions and in January 1968 it was estimated unions had a total membership of 1,930,000.

International Labour Organization - ILO

Canada was one of the founding members of the ILO in 1919 and has been an active member ever since. Canada has to date ratified 24 ILO Conventions, of which Conventions 105 and 111, which were ratified in 1959 and 1964 respectively, are classified by the ILO as relating to basic human rights. Other conventions relating to minimum age and social security are under study and are being compared with federal and provincial legislation in order to establish whether or not they can be ratified.

Because Canada is a federal state, it is faced with special considerations in the ratification of conventions. Conventions adopted by the International Labour Conference each year are studied by the Department of Justice, and an opinion is given as to whether they fall within federal, provincial or both

legislative jurisdictions. Those falling exclusively within federal jurisdiction can be studied by the federal departments concerned to ascertain the degree of compliance existing and also to explore the feasibility of moving towards compliance if it does not already exist. Those falling within jurisdictions of both levels of government are considered through a process of federal-provincial consultation.

Canada has been a permanent member of the ILC's governing body since 1919, with one brief technical break in the 1930's. At the present time, there is a Canadian worker member and a Canadian deputy employer member, in addition to the government member on the ILC governing body. Each year Canada sends a tripartite delegation to the International Labour Conference, which includes representatives from federal and provincial governments and from labour and management. Canada also has membership in eight ILO industrial committees and participates in various other regional conferences, committees and meetings.

Canada has played an important part in the field of technical assistance to developing countries. Since 1951, some 70 Canadian experts have taken part in ILO assignments in developing countries. Canada has also received 15 ILO Fellows for training in various aspects of labour administration and other technical subjects.

Canada has supported the work of two other IIC bodies, the International Institute for Labour Studies in Geneva and the International Centre for Advanced Technical and Vocational Training in Turin. In 1964 grants of \$250,000 and \$200,000 respectively were made to these institutions, payable in annual instalments of \$50,000 each.

The International Labour Office was housed during the Second World War in Montreal and had its headquarters there until 1948. Shortly after, the ILC opened a branch office in Ottawa. In the fall of 1966, the eighth regional conference of American States members was held in Ottawa.

ANTI-DISCRIMINATION LAWS

Though Canadians have long enjoyed a heritage of human rights and fundamental freedoms, previous to the adoption of the Universal Declaration of Human Rights in 1948, the principle of equal opportunity without regard for race, colour, religion or national origin was not embodied in specific laws in most jurisdictions in Canada.

Only two provinces had taken limited legislative action: Ontario had enacted in 1944 the Racial Discrimination Act making it an offence to display or publish any notice, sign, symbol or other representation expressing racial or religious discrimination; and in 1947, Saskatchewan has passed a Bill of Rights Act laying down certain civil rights to be enjoyed by all people regardless of race, creed, colour, religion, ethnic or national origin including the right to obtain and retain employment.

However, since 1948, a great number of laws and amendments to existing laws have been passed guaranteeing equality of opportunity in matters of employment, training for employment and accommodation.

Since 1950 the Canadian Parliament and eight of the 10 provincial legislatures have passed Fair Employment Practices Acts: British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Saskatchewan, Quebec and Alberta.

During the same period Parliament and these same provinces, together with Prince Edward Island, passed legislation prohibiting lower rates of pay for women doing the same work as men.

Fair Employment Practices laws prohibit discrimination in hiring, conditions of employment and in trade union membership, based on race, colour, religion or national origin. Under these Acts no employer can refuse to employ or continue to employ, or otherwise discriminate against any person in regard to employment, term or condition of employment because of his race, colour, religion or national origin.

Further no employer can use an employment agency which practises discrimination, or use application forms which express directly or indirectly any limitation, specification or preference based on race, colour, religion or national origin. There are similar provisions against discriminatory advertising.

Provision is made for individuals to complain and formal procedures are set down for the investigation of complaints which

can lead to prosecutions in the courts. Persons making complaints are protected from retaliatory action.

Since 1954, employees in businesses or industries carrying out federal government contracts in construction or manufacturing are protected by the federal Fair Wages and Hours of Labour Act and the Fair Wages Policy; all such contracts prohibit the employer from discriminating in his employment practices. A large notice containing this non-discrimination provision is posted at every contract site. Disregard of this provision constitutes breach of contract.

Since 1955, Canada's national employment agency - the "Canada Manpower Centres", formerly known as the National Employment Service - has followed a strict policy of non-discrimination, by virtue of the policy being contained in Section 22(b) of the Unemployment Insurance Act, under which the centres operate: "in referring a worker seeking employment, (must ensure) there is no discrimination because of race, national origin, colour, religion or political affiliation."

The Canadian Bill of Rights, a federal Act of Parliament, was passed in 1960. It recognizes individual rights and freedoms, including the right to employment without regard to race, national origin, colour, religion or sex.

Since 1960-61 federal-provincial agreements signed under the Vocational Rehabilitation of Disabled Persons Act specify that all facilities and services under the Act are to be available without discrimination because of racial origin, religious views or political affiliation. "Colour" is considered to be implicit in "racial origin."

In 1962 Ontario codified its existing anti-discrimination legislation in the areas of employment, public accommodation and multiple dwellings into the Ontario Human Rights Code.

In 1963, Nova Scotia also codified its anti-discrimination legislation.

In 1962, the federal Civil Service Act was amended to include an anti-discrimination clause forbidding discrimination on the basis of race, colour, religion or national origin.

Two provinces, British Columbia and Ontario, have enacted legislation banning employment discrimination on the grounds of

age; the legislation is designed to provide equality of opportunity for capable older workers (those aged from 45 in British Columbia and from 40 in Ontario) who are denied work because of their age.

Also in 1964, Quebec passed similar legislation. This additionally prohibited discrimination on the grounds of sex.

In 1964 Canada, with the agreement of all provinces, ratified the International Labour Convention III concerning Discrimination in Respect to Employment and Occupation.

In 1966, Alberta passed a Human Rights Act which forbids discrimination in employment, union membership, employment advertising and public accommodation.

In 1966 the Northwest Territories Council approved a Fair Practices Ordinance, proclaiming in its preamble that "it is public policy in the Northwest Territories that every man and woman is free and equal in dignity and rights without regard to race, creed, colour, nationality, ancestry or place of origin." It forbids discrimination in employment, trade union membership and accommodation on these grounds, and also provides for equal pay for men and women doing the same work.

COLLECTIVE AGREEMENTS

Anti-discrimination provisions are also to be found in many collective agreements between employers and trade unions; Section 36(b) of the Ontario Labour Relations Act states that a collective agreement will not be seen as such under the Act if it discriminates against a person because of his race, creed, colour, nationality, ancestry or place of origin. A similar provision is contained in the British Columbia Labour Relations Act (Section 12(8)), which forbids certification of a union that discriminates contrary to the B.C. Fair Employment Practices Act. Any agreement entered into by such an association and an employer would be deemed not to be a collective agreement.

Wherever collective agreements possess a non-discrimination clause, the clause is subject to grievance procedure and might well arrive at the arbitration stage. In this event, the arbitrator has the legal power to re-instate the employee, and to order back pay to be made.

HOUSING AND ACCOMMODATION

Since 1948 a great deal of progress has also been made in passing anti-discrimination laws concerning housing and accommodation.

The national housing loan regulations under the National Housing Act of 1954 make it a condition of every loan made by an approved lender and insured by the Central Mortgage and Housing Corporation that the borrower will not discriminate against any person by reason of his race, colour, religion or national origin. The regulations also provide for a review by an independent arbitrator of any allegation of discrimination. Any merchant, builder or rental entrepreneur found guilty of practising such discrimination will be debarred for three years from obtaining further loans under the Act. A clause to this effect is contained in all National Housing Act mortgages.

Six provinces have passed Fair Accommodation Practices Acts: Ontario (1961-62), Saskatchewan (1956), New Brunswick (1959), Nova Scotia (1963), Manitoba (1960) and British Columbia (1961). They all stipulate that the facilities, accommodations and services of places which are customarily open to the public (hotels, restaurants, barber shops, theatres, etc.) must not be denied to anyone on the grounds of race, creed, colour, nationality, ancestry or place of origin. Alberta has similar legislation contained in its Human Rights Act of 1966. Both Ontario and Nova Scotia have amended their Fair Accommodation Practices legislation to include multiple dwellings as public accommodation.

In Quebec, Section 8 of the Hotels Act (1963) forbids refusal of lodging, food or other services, or other discrimination in hotels, restaurants or camping grounds, on the grounds of race, belief, colour, nationality, ethnic background or place of birth.

OMEUDSMAN

Two provinces, Alberta and New Brunswick, enacted legislation in 1967 establishing the office of Ombudsman to safeguard the individual against administrative actions or decisions that are contrary to law, based on the state of law or fact and unreasonable, unjust, oppressive or improperly discriminatory action arising out of the application of the law to a particular case. Ombudsmen now have been appointed in both provinces.

INCREASING PUBLIC AWARENESS OF HUMAN RIGHTS IN EMPLOYMENT

An important aspect of Canadian anti-discrimination legislation is the promotional efforts now being undertaken by the Canada Department of Labour and the provincial agencies responsible for the administration of anti-discrimination laws. In 1967, the Canada Department of Labour established a branch with a full-time staff to administer a Fair Employment Practices

Act and to undertake a national program of publicity and public education involving close liaison and co-operation with the provinces, communications media, employer and employee associations and other organizations in positions to support the principle of affirmative action.

In addition to Ontario, two other provinces, New Brunswick and Nova Scotia, have established full-time human rights commissions to administer equal opportunity laws and conduct broad programs of public education. Also in 1967, the Province of Alberta established a full-time office with similar responsibilities.

During Human Rights Year national meetings of the administrators of labour legislation and Fair Employment Practices laws are being held to review progress and make plans for co-ordinated efforts to increase the effectiveness of the administration of the laws. Supporting educational programs at both the school and adult level will increase public awareness and a demand for affirmative action on behalf of all persons socially disadvantaged by virtue of race, colour or national origin.

In the two decades since the adoption of the Universal Declaration of Human Rights there has been a steady advance in the enactment of labour legislation in Canada both to fill gaps where no legal standards had been established and to set higher standards under existing laws.

LABOUR RELATIONS

In this period, our present system of industrial relations law came into effect with the enactment of the federal Industrial Relations and Disputes Investigation Act and the provincial labour relations Acts. The Acts made general throughout Canada a guarantee of freedom of association, compulsory collective bargaining, uniform procedures for certification of a trade union as the exclusive bargaining agent for an appropriate unit of employees, long-tested procedures for the settlement without resort to strike action of disputes arising during the term of a collective agreement regarding its interpretation or violation. Amendments to provide for new or improved procedures (e.g., special provisions in Ontario governing the construction industry) have been adopted in all provinces. Collective bargaining rights have been extended to new classes of workers, e.g., professional groups, such as teachers, and government employees.

LABOUR STANDARDS CODE

In the field of labour standards, one of the most important developments was the enactment by the Parliament of Canada

in 1965 of the Canada Labour (Standards) Code. It set minimum standards of wages, hours of work, annual vacations with pay and public holidays for employees in industries subject to federal jurisdiction. In only one of these areas - annual vacations - had any legal standards been laid down previously for employees in the federal industries.

The Code provided for a minimum wage rate of \$1.25 an hour; a standard eight-hour day and 40-hour week, with overtime hours to be paid for at time and one-half the regular rate and limited to eight in a week, except in certain exceptional circumstances; two weeks' annual vacation after a year's service; and eight general holidays with pay.

In order that the application of the new statutory requirements should not cause hardship to industries not hitherto subject to legal regulation, and because the Code applies to transportation undertakings which by their nature find it difficult to operate within fixed schedules of hours of work, the Code permitted deferment of the hours of work and minimum wage standards. The period of adjustment to the minimum wage came to an end on December 31, 1966. The interprovincial and international trucking industry, the shipping industry, and a few other employers are still subject to deferment of the hours of work standards.

TERRITORIAL CREDITANCE

A further step in the development of labour legislation in Canada was taken on November 25, 1967, when the Council of the Northwest Territories enacted a Labour Standards Ordinance, with standards modelled on the Canada Labour (Standards) Code, except that longer hours were permitted in view of local conditions. Previous to its enactment, the only labour standards applicable were those established by mines legislation. The Yukon Territorial Council has introduced a similar ordinance and it is expected that it will be enacted.

MINIMUM WAGES

During the period many additional workers came under the protection of minimum wage legislation. New minimum wage laws were enacted in two provinces. In the sixties, the first rates ever established for male workers in Ontario, Nova Scotia and Prince Edward Island were put into effect, and general coverage

was provided for men as well as women in New Brunswick. In most provinces minimum wage orders now cover practically all employment except farm labour and domestic service. For the most part, differentials in the minimum rate on the basis of sex and geographical area no longer apply. Through periodical increases, rates throughout the country, with few exceptions, have now reached or exceeded \$1 an hour. In three provinces a minimum of \$1.25 an hour is in effect. In addition, rates which are higher than the general minimum are in effect in most provinces for certain skilled trades, such as logging and construction. In British Columbia, special minimum rates for skilled workers range from \$1.50 to \$2.50 an hour.

HOURS OF WORK

Although hours of work in Canada have steadily declined, the legal regulation of hours has proceeded rather slowly. Five provinces have enacted general hours of work laws. In the period covered, Manitoba enacted a general hours of work law, applicable to scheduled industries in the more industrialized areas, which set standard hours of 48 in a week for men and 44 in a week for women and required payment of time and one-half the regular rate after the standard daily or weekly hours. In 1966 the standards relating to hours of work and payment of overtime were made applicable to all industries throughout the province. In Alberta, limits of eight hours per day and 48 hours per week adopted in 1945, were reduced to eight and 44 in all parts of the province. There has been a definite trend towards a reduction of hours in the decrees issued under the Quebec Collective Agreement Decrees Act.

In British Columbia, a standard workweek of 40 hours, instead of 44, has been established in almost all classes of employment, through the requirement laid down in minimum wage orders that time and one-half the regular rate must be paid after eight and 40 hours.

ANNUAL VACATIONS

New Brunswick, Nova Scotia and Prince Edward Island have enacted annual vacations legislation. The duration of the vacation period was extended in several jurisdictions (Alberta, British Columbia, Manitoba, Nova Scotia and Ontario), with the result that a two weeks' vacation is the standard now required in a majority of the provinces. In Saskatchewan, since 1958, workers with more than five years' service have been entitled to a vacation of three weeks. In all jurisdictions workers are entitled to vacation pay on termination of employment during a working year.

PUBLIC HOLIDAYS

Alberta and British Columbia have laid down legal requirements regarding the observance of paid public holidays in the past three years. Saskatchewan had enacted such provisions in 1947. Two other provinces specify an overtime rate of pay for work performed on certain holidays.

INDUSTRIAL SAFETY

With Canada's developing industrialization, a large body of laws designed to protect workers against the hazards of their working environment has grown up. The legislation, which includes laws governing elevators and lifts, boilers and pressure vessels, the certification of operating engineers, electrical and gas inspection, is continually being revised to meet new needs.

Factory laws have been modernized and expanded. In British Columbia, the Act was extended in 1966 to cover shops and offices as well as industrial plants. In some provinces, (e.g., Manitoba and New Brunswick) factory Acts have been replaced by general industrial safety laws broad enough to cover all employment except mining, domestic service and, in Manitoba, agriculture. Only matters of principle are included in the new safety laws in Canada. Each Act is supplemented by regulations requiring the observance of specific safety and welfare standards.

There have also been changes in administrative organization with a view to improved procedures, better co-ordination of safety measures, and more effective enforcement of labour laws. In New Brunswick, an Industrial Safety Council, representing labour, management and government, was established to promote and co-ordinate industrial safety activities in the province. In Ontario, the Labour Safety Council, an advisory body set up in 1962, was reorganized in 1966 to provide for equal representation by representatives of the seven safety associations and union representatives in the industries which the associations represent.

In recent years Ontario, Manitoba and Nova Scotia have enacted new Construction Safety Acts, and other provinces have revised regulations dealing with construction, demolition, trenching and excavation. Revised compressed air regulations were issued in British Columbia, Ontario and Quebec. Comprehensive new regulations were made in Ontario governing foundries and grain elevators. Loggers' safety was dealt with in New Brunswick, Ontario, Alberta and British Columbia.

The Accident Prevention Regulations of the British Columbia Workmen's Compensation Board, which constitute the safety code of

the province, were extensively revised in 1966. New regulations in New Brunswick under the Industrial Safety Act, in effect an industrial safety code, went into force on May 1, 1965. The Alberta Workmen's Compensation Board is also engaged in a program of revision of its safety regulations.

In the field of federal jurisdiction, the Canada Labour (Safety) Code was brought into force on January 1, 1968, with the aim of securing safer conditions in the federal industries.

WORKMEN'S COMPENSATION

The benefits provided under Workmen's Compensation Acts for workmen injured on the job and for the dependents of deceased workmen have increased steadily throughout the years in line with the rise in the cost of living. Other amendments have extended the scope of the Acts to a greater number of workmen. Among the groups recently covered were farm workers in Ontario and deepsea fishermen in Newfoundland. The Quebec Workmen's Compensation Commission announced a plan which will bring under the Act practically all non-covered employments within a period of five years. The first group of these workers was covered from October 1, 1967.

In 1965 British Columbia made provision for the incorporation of a cost-of-living formula in pensions to widows and dependent children and permanently disabled workmen, thus removing the need to increase pensions from time to time by legislative action. Under this formula, pensions are increased two per cent for each rise of two per cent in the Consumer Price Index in the preceding year. In line with changes in the cost of living, pensions and allowances have been increased by approximately eight per cent since January 1, 1965.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

(See pertinent sections included with comments for Article 23.)

Article 25

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Information for this Article is included in comments for Article 22.

Article 26

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Under the BNA Act, responsibility for the organization and administration of public education is exercised by the provincial governments. The federal government is directly concerned only with the provision of education for certain special groups -- Indians and Eskimos, other children in the Northwest Territories, inmates of federal penitentiaries and families of members of the Armed Forces on military stations.

In addition, the federal government makes grants for vocational training, provides per capita grants to each province to be divided among its universities and colleges, provides substantial assistance for the development of informal and adult education and makes grants-in-aid for educational research personnel and equipment.

Education organization, policies and practices differ from province to province. Each has a Department of Education, headed by a minister who is a member of the provincial Cabinet. There is no federal Department of Education. Other provincial departments operating school programs are: departments of labour, operating apprenticeship programs; agriculture departments, operating agriculture schools; departments of the attorney-general or of welfare, operating reform schools; and departments of lands and forests, operating forest ranger schools.

The work of the education departments has grown considerably since 1948. Services have been expanded in the fields of health,

audio-visual aids, art, music, agriculture, special education, correspondence courses, prevocation and trade courses and adult education. At the same time there has been an increasing delegation of authority to local school boards and staff.

In all provinces, school laws provide for the establishment and operation of schools by local education authorities, responsible to the provincial government and resident taxpayers for the actual operation of the schools. There has been a continuing trend towards larger administrative units to provide a broader income base and greater facilities.

The largest part of elementary and secondary education is administered by public authorities. A small portion, however, is administered by private bodies, mainly separate schools under the control of various religious denominations.

In 1944, the portion of Canada's GNP directed to education was 1.5 per cent; by 1964 it had risen to 6 per cent of the GNP. In addition, the GNP nearly quadrupled over the same period. As a result, more than 15 times as much money was spent on education in 1964 than was the case in 1944. In 1967, between 90 per cent and 95 per cent of the school age population attended school daily and the percentage of the total population in school rose from approximately 18 per cent in 1948 to approximately 25 per cent in 1968.

The following figures indicate the sources of funds and the break-down of expenditures for education for the 1967-68 fiscal year.

In Millions of Dollars

Source -

Local government taxation	1,197
Provincial and territorial governments	2,115
Federal government	818
Non-government (private) sources	409
<hr/>	
Total	4,539

Expenditures -

Elementary and secondary education - Public	2,861
Private	95
Teacher training outside of universities	28
Higher education	1,130
Vocational training	409
Other	16
	—
Total	4,539

Elementary and Secondary Education

Enrolment in elementary and secondary schools has been increasing year by year, until by 1964-65 (the latest available statistics) there were 4,972,000 pupils in public schools, 200,000 in private schools, and 70,000 in various vocational schools and courses (public and private).

Most Canadian children of age six enter an eight-grade elementary school. At about 14 years of age, nearly 90 per cent of those who entered grade 1 go into a regular four-or five-year secondary school. About 13 per cent of those who began this program go on to higher education.

Secondary schools in 1948 were predominantly academic and prepared their pupils for entry into university. Vocational schools were to be found mainly in the large cities. Today, besides commercial and vocational high schools, there are, in increasing number, composite and regional high schools that provide courses in home economics, agriculture, shop-work and commercial subjects, as well as in the regular secondary school subjects. The number of subjects offered also has increased greatly and the number of options available provides a wide choice for pupils with a great variety of abilities and aims.

In the Province of Quebec in 1948, there were two separate, independent school systems, one for French-speaking Roman Catholics and the other for English-speaking Protestants. Minorities such as Italian, German, Hungarian, Jewish, Irish, Syrian and Japanese ethnic groups established in Quebec had to support either the Catholic or Protestant systems.

As a result of the work of a Royal Commission of Inquiry on Education in Quebec, established in 1961, a provincial Department of Education and a Superior Council of Education was formed in 1964 and education in Quebec is being completely reorganized.

In the Province of Newfoundland, which entered the Canadian Federation in 1949, the school system is predominantly denominational with most schools administered on a local basis by the five largest denominational groups -- Roman Catholic, Anglican, United Church, Salvation Army and Pentecostal Mission.

Except in Newfoundland, student fees for public elementary and secondary schools are almost non-existent. In Newfoundland, parents pay nominal fees which account for about 10 per cent of school revenue.

Compulsory attendance ages vary between provinces and several have increased the compulsory school-leaving age since 1948. At present, four provinces have compulsory attendance between six and 16, two between six and 15 and four between seven and 15. Most provinces also provide schooling free of charge for pupils up to ages 19, 20 or 21, for those who have not completed secondary school by the normal school-leaving age.

In 1964, a federal Youth Allowances Act was passed which provides for a monthly allowance of \$10 per dependent child, between the ages of 16 and 18, who is in full-time attendance at an educational institution.

The quality of education also has improved since 1948 with rising standards of teacher training. All provinces now require candidates for elementary school teacher certificates to have high school completion or better, with at least one year of professional training in a faculty of education or a teachers' college. High school teachers generally are university graduates who have taken an additional year of professional training or who have a degree in education. In five provinces all teacher training now is conducted at a university.

Between 1945 and 1965, the median salary for all teachers in the provinces other than Quebec increased 310 per cent, in comparison with a 50 per cent rise in the cost of living since 1949.

Higher Education

The number of universities has more than doubled since 1948 and a fairly recent innovation is the establishment of junior

colleges, affiliated with universities, in which the last one or two years of high school and the first one or two years of college are offered.

Although the total population of Canada increased by about 50 per cent between 1948 and 1966, student enrolment in full-time sessions in universities and colleges increased more than 300 per cent, from 83,000 to 268,000.

In 1948, student fees provided 40 per cent of university operating costs, government grants 40 per cent and other sources the balance. By 1967, only 25 per cent of operating costs came from student fees, 62 per cent came from government and 13 per cent from other sources. This increase in government financing has been an important factor in the increase in student enrolment in institutions of higher learning since 1948.

Another development has been the enactment of the Canada Student Loans Act in 1964. This Act, administered through the provinces, set aside \$40 million to enable full-time students to borrow up to \$1,000 annually, interest-free for five years, up to a total of \$5,000 for any one student. Each individual's total loan is to be repaid, with interest commencing six months after the student has graduated or left school, under a pay-back formula. This loan scheme is operated by the chartered banks with the students being approved for loans by the universities and institutes of technology. The federal government guarantees the loans and pays the interest while the student is attending college. The amount allocated to this fund is increased year by year in proportion to the increase in the number of persons 18-24 years of age.

In 1957, through the Canada Council, the federal government provided an amount of \$100 million, half of which was to be distributed among the universities for specified building and equipment purposes. Interest from the remaining \$50 million is to be used to assist in the development of the arts, humanities and social sciences, mainly through scholarships.

Vocational and Technical Education

In 1949, a limited number of vocational training programs were available. Apprentice and youth training, training for the unemployed and for members of the Armed Forces cost the federal government a total of approximately \$1 1/4 million. By 1962, the federal contribution to similar programs had risen to more than \$73 million.

It is now accepted that vocational education is a public responsibility which must be provided, as needed, throughout a man's working life.

The pattern of vocational education varies from province to province. However, three basic types of institutions offer vocational education -- secondary schools, trade schools and post-secondary institutes of technology. A system of on-the-job apprenticeship training also is available.

The federal Department of Manpower and Immigration assists the provinces in the development of programs of technical education at different levels -- for youth preparing to enter the labour market, for trade and other occupational training and retraining of adults (pre-employment and upgrading courses) and for advanced technical training.

In 1967, the Adult Occupational Training Act replaced the 1961 Technical and Vocational Training Assistance Act which formalized federal-provincial programs under way since 1953. In the majority of the programs developed under the 1961 Act, the federal government paid 50 per cent of the cost of approved programs. Under the new Act, the government will pay 100 per cent of the operational costs for similar programs. A weekly allowance also is provided to each trainee while in training. This varies from a minimum of \$35 per week to a maximum of \$90 per week depending on the number of dependents and other factors.

External Educational Aid

Since 1948 Canada has expanded its program of educational assistance to developing countries.

In 1960, 16 teachers were sent to developing countries on request. By 1965 this had risen to 439. In 1960 only one university teacher was on assignment overseas. By 1965, 101 were working in other countries.

More than 6,000 persons have been trained in Canada under bilateral programs since 1950. Training programs are arranged in any field of activity found in Canada. Most are in academic programs at all levels.

Since 1960, approximately \$7 million for capital assistance to educational development programs has been provided by Canada.

About six per cent of total expenditures of all Canada's bilateral aid programs was spent on educational assistance in

1960. By 1965, this proportion had risen to approximately 9.6 per cent.

Adult Education

Participation in adult education activities has shown a marked rise since 1948.

By 1965, total course enrolment in adult education (as defined by UNESCO) was more than 3,000,000. Two thirds of the enrolment was in professional and vocational training. Another 18 per cent was in health and social education courses, including courses in marriage preparation, citizenship training, water safety, child care and nutrition. Academic courses leading to a high school diploma or university degree accounted for nearly eight per cent of total enrolment and fine arts and other cultural subjects for the remainder.

The federal government sponsors some adult education programs and provides grants-in-aid to the provinces for others. Each province has developed its own programs, operated mainly by local school boards and provincial universities, supplemented by independent universities and private organizations.

A 1960 survey, using a sample of the population 15 years of age or over, indicated a typical student was male, married, about 31 years of age, had completed secondary schooling and had worked in a clerical or similar occupation.

Article 27

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Canada has a number of institutions and agencies which promote the arts and scientific advancements. One of the more significant is the Canada Council which was formed in 1957.

Canada Council

The Canada Council was created to "foster and promote the study and enjoyment of, and the production of works in, the arts, humanities and social sciences." It does this largely through a comprehensive program of grants and fellowships. It also administers as a separate agency, the Canadian National Commission for UNESCO. In the year ending March 31, 1967, the Council spent \$5,581,000 in the humanities and social sciences, of which \$3,565,000 financed 1,053 fellowships and \$2,016,000 was applied to a wide variety of grants.(14) In the arts the council spent \$4,352,000 of which \$524,000 was used to finance 186 scholarships and fellowships and the remainder to grants.(15) These sums represent an increase of approximately one third over expenditures of the previous year. The council spent smaller amounts on scholarships for students and artists from French-speaking countries, and in the field of engineering, medicine and science.

National Film Board

The National Film Board produces and distributes films "designed to interpret Canada to Canadians and to other nations." Since 1948, the number of national, provincial and community film distribution outlets to serve the public has tripled. The board's films are used in classrooms, on television and in commercial theatres throughout the country. The board also maintains a library of 150,000 still photographs which are available at a nominal cost to magazines, newspapers, etc.

Canadian Film Development Corporation

In 1967 the federal government introduced the Canadian Film Development Corporation which is designed to promote a feature film industry in Canada. Loans, awards and grants will be made by the corporation to assist film producers. Initially, \$10 million has been appropriated for this purpose.

Protection of artistic, literary and scientific productions

Under the terms of the British North America Act, copyrights, patents and trade marks are within the legislative authority of the federal government. Canada belongs to the Universal Copyright Convention. There has been a steady increase in the number of copyrights, patents and trade marks granted through the last 20 years. (16)

Patents granted:	1948 -- 16,585	1966 -- 24,241
Copyrights registered:	1948 -- 4,002	1966 -- 7,720
Trade Marks registered:	1948 -- 2,992	1966 -- 5,097

Some Human Rights Problems in Canada

- 1) Division of powers between the federal and provincial governments under the BNA Act as well as economic disparities between regions have resulted in unequal progress in human rights in the different provinces. Examples are discrimination in employment and accommodation; property rights; educational facilities and opportunities; social welfare services; right to counsel and legal aid; minimum wages and language rights.
- 2) Rights of Indians in relation to those of other Canadians are substantially different under the provisions of the Indian Act. Ownership, sale and alienation of property; status of women; management of Indian monies; inheritance; right to drink liquor; and designation as an Indian are among matters restricted by the existing legislation.
- 3) Restrictions on land ownership by Hutterites and the problems of the Sons of Freedom minority among the Doukhobors involve civil liberties issues of continuing relevance.
- 4) Use of evidence obtained by illegal means against an accused in criminal cases.
- 5) Prohibition of distribution of hate literature versus freedom of speech in relation to elimination of discrimination.
- 6) Tax supported denominational elementary and secondary schools.
- 7) Language rights, particularly French-language use by government agencies and in education.
- 8) The question of religious freedom involved in the Lord's Day Act.
- 9) Remedies against abuse or illegal use of administrative authority by government or other public officials. Only two provinces have an Ombudsman or a similar institution.
- 10) Implementation of non-discrimination regulations in immigration matters, particularly in relation to Africans, Asians and South Americans wishing to enter Canada.

- 11) Uniformity of treatment across Canada for juvenile offenders.
- 12) Rights of illegitimate children in inheritance matters.
- 13) Availability of bail on a uniform basis across Canada.
- 14) Recognition cf group rights as well as individual rights.
- 15) Equality of treatment for women in such matters as property rights, and employment.
- 16) Expropriation regulations and procedures, and the development of compensation standards.
- 17) Status of the Canadian Bill of Rights. Its current weakness as an ordinary statute and its possible future revision and entrenchment in the Constitution.

This list is by no means exhaustive but illustrates some issues of current concern in Canada.

Significant Judicial Decisions Relating to Human Rights

Freedom of Speech and the Press

Re Alberta Statutes (1938) - SCR 100

The Supreme Court held that Alberta legislation enacted in 1937, to compel provincial newspapers to disclose the source of their news information and to print government statements to correct previous articles, was ultra vires.

Cannon J. stated that free public opinion and free discussion was necessary throughout the nation on all matters affecting the State, within the limits set by the Criminal Code and the Common Law, to maintain democracy. Duff C.J.C. stated the preamble to the BNA Act showed the Canadian Constitution was to be similar in principle to that of the United Kingdom and this contemplated a Parliament working under the influence of public opinion and public discussion.

Boucher v The King (1951) - SCR 265

This case pointed out that freedom of speech is not unlimited and "there must be a point where, restriction on individual freedom of expression is justified and required on the grounds of reason, or on the ground of the democratic process and the necessities of the situation."

Switzman v Elbling and A.G. of Quebec (1957) - SCR 285

In this case, the issue was a Communist Propaganda Act passed by the Quebec Legislature and prohibiting the propagation of communist propaganda. The Supreme Court declared the Act invalid and reference was made to the principle that the right of discussion and debate was above even the power of Parliament to abrogate.

Freedom of Religion

Saumur v. City of Quebec (1953) - 2 SCR 299

This case involved a city bylaw prohibiting the distribution in the streets of any book, pamphlet, booklet, circular, or tract without the written permission of the Chief of Police. Saumur was a Jehovah's Witness who brought the action challenging the bylaw's validity.

Seven separate judgments were handed down by the Supreme Court in this case. Three judges held that religious freedom was a civil right and within provincial jurisdiction. Four judges held that it was not, with one of the four holding that it came under the criminal law power. Two did not deal with this aspect. Four judges held the bylaw to be ultra vires of the province and five held it to be intra vires, with one of the five holding that the bylaw did not operate so as to prohibit Saumur from distributing his tracts. Although Saumur won the case, the bylaw stood.

Since this case, the federal claim to legislative jurisdiction under the criminal law power regarding freedom of religion has been more widely accepted as a result of the "Birks" decision cited below.

Birks and Sons (Montreal) Ltd. v. City of Montreal (1955) - SCR 799

The Supreme Court in this case invalidated an amendment of the provincial legislature providing for closing of stores on certain enumerated holy days. It held that this was in "pith and substance" religious and Sunday observance legislation which properly is part of the criminal law and thus within the jurisdiction of Parliament and not the legislature of any province.

Chaput v Romain (1955) - SCR 834

In this case, provincial police officers, acting under orders of a superior officer, entered the plaintiff's house during a peaceful Jehovah's Witness religious meeting, ordered everyone to leave, seized religious materials and escorted an invited minister to a ferry.

The Supreme Court unanimously held that the officers' conduct was reprehensible and a flagrant violation of the appellant's right to religious freedom. Damages of \$2,000 were awarded to the plaintiff.

Chabot v. School Commissioners of Lamorandiere (1958) 12 DLR (2d) 796

In this case Pratt J. of the Quebec Court of Appeal held that the right to give one's children the religious education of one's choice is anterior to positive law and that children who attend a school are not obliged to follow a religious teaching to which their father is opposed. Other justices held similar points of view and thus established a precedent for future decisions.

Answerability of Public Officials

Two cases illustrate the use of civil action for damages as a remedy for illegal infringement of one's rights by persons discharging public office.

Roncarelli v. Duplessis (1959) - SCR 121

Roncarelli was a Jehovah's Witness in Montreal and a proprietor of a restaurant having a liquor licence. He had acted as bondsman in a number of cases involving Jehovah's Witnesses. The Quebec Liquor Commission cancelled his liquor licence and Roncarelli brought action against the Premier of the Province, alleging the Premier had instigated the cancellation of the licence. When the case reached the Supreme Court, the majority held that the Premier had in fact acted without legal basis for his action and without statutory justification for it, and had wrongfully caused the cancellation of the licence. Damages of \$25,000 were granted.

Lamb v. Benoit (1959) - SCR 321

In this case, the appellant, a woman, had been arrested while distributing Jehovah's Witness pamphlets on a street corner at a time when three other Witnesses were handing out copies of a pamphlet alleged by the Province to be seditious. The appellant did not have the latter pamphlet but was arrested along with the others and held in custody over the weekend without being permitted to contact anyone. She was offered her freedom on Monday morning provided she would release her rights against the provincial police for wrongful detention. She refused and was then charged with sedition and acquitted. Action was brought against certain police officers. The majority of the Supreme Court (6 to 3) eventually held that Benoit, the officer who had made the original arrest, had not acted in good faith and damages of \$2,500 were awarded.

- (1) A Special Committee on the Constitution held its first session in March 1970. This is a Joint Committee of the Senate and House of Commons.
- (2) For recent amendments to the Criminal Code see Statutes of Canada 1968-69, c.c. 37, 38, 41, s.13.
- (3) The Northwest Territories Probation service is now fully operational.
- (4) In 1968-69 Canada contributed \$1,519,000 to UNRWA and \$350,000 to UNHRC.
- (5) In 1969 Canada signed and ratified the Convention on the Status of Refugees and the Hague Agreement.
- (6) The legislative proposals were incorporated in the Immigration Act and became effective on October 1, 1968.
- (7) Immigrant arrivals in 1968 numbered 183,974. In the first nine months of 1968 119,692 immigrants arrived in Canada.
- (8) For recent changes see Statutes of Ontario 1961-62, c.71.
- (9) The Act respecting Divorce was assented to 1st February, 1968.
- (10) As Newfoundland entered Confederation on March 31, 1949, information quoted here dates from its entry into Confederation.
- (11) In 1968/69 the estimated number of persons in insurable employment was 5,478,000. The total number of initial claims was 1,380,018 and the total amount of benefit paid \$459,088,921.
- (12) In 1969 Canada's assessment was \$1,827,000.
- (13) From 1945 to 1969 the Canadian governments contributions were \$19,775,000.
- (14) During the year ending March 31, 1969 the council spent \$16,600,000 of which \$10,840,000 financed fellowships, in the humanities and social sciences.
- (15) In the arts \$8,800,000 was spent in the year ending March 31, 1969 of which \$1,800,000 was assistance to individuals and \$7,000,000 was grants to organizations.

- (16) For the year ending March 31, 1969, 27,703 patents 8,200 copyrights, and 5,976 trade marks were registered.

